

1 DEPARTMENT OF LABOR AND INDUSTRIES  
2 STATE OF WASHINGTON  
3  
4

---

5  
6 ELECTRICAL BOARD MEETING  
7

8 TRANSCRIPT OF PROCEEDINGS  
9

10 Thursday, April 27, 2006  
11

---

12  
13 BE IT REMEMBERED, that a quarterly Electrical Board  
meeting was held at 9:00 a.m. on Thursday, April 27, 2006,  
14 at the address of 1620-74th Avenue S.W., Tumwater,  
Washington before CHAIRPERSON GLORIA ASHFORD and BOARD  
15 MEMBERS JIM SIMMONS (Vice Chair), PHILIP PARKER, DON  
KOPCZYNSKI, FRED TRICARICO, DAVID A. BOWMAN, DAVID S.  
16 BOWMAN, DAVID M. JACOBSEN, TRACY PREZEAU, GEOFF NEWMAN,  
DON GUILLOT, DAVE GOUGH and SECRETARY/CHIEF ELECTRICAL  
17 INSPECTOR RONALD FULLER. Also present were ASSISTANT  
ATTORNEYS GENERAL JEAN MEYN representing the Board and  
18 JASON MCGILL representing the Department.  
19 WHEREUPON, the following proceedings were held, to  
wit:

20  
21  
22 Reported by:  
H. Milton Vance, CCR, CSR  
(License #2219)

23  
24 EXCEL COURT REPORTING  
16022-17th Avenue Court East  
Tacoma, WA 98445-3310  
25 (253) 536-5824

1 Thursday, April 27, 2006  
Tumwater, Washington  
2

3 I N D E X  
4

5 Agenda Item Page

6  
7 1 Approve Minutes of January 26, 2006, 4

8	Electrical Board Meeting		
	Motion	4	
9	Motion Carried	4	
10	2 Departmental Update		5
11	3 Budget Report	15	
12	4 RCW/WAC Update		40, 72
13	5 Secretary's Report	23	
14	6 Certification Quarterly Report & Examination Development	64	
15	* Old Business	76	
16			
17	7 Presentation of Final Orders	81	
18	8 Appeals	82	
19	8 A Techna Systems, Larry Bishop		86
	Motion	106	
20	Motion Carried	111	
21	8 B Northwest Electrical Service		113
22	Motion	117	
	Motion Carried	118	
23	8 C Thomas Burrell & Mark Burrell		119
24	///		
25	///		

3  
Thursday, April 27, 2006  
Tumwater, Washington

2	I N D E X (Cont.)		
3			
4			
5	Agenda Item	Page	
6			
7	Motion	132	
	Motion Carried	133	
8			
	8 D Wright, Inc.	82	
9			
10			
11			
12			
13			

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

4

1 PROCEEDINGS

2

3 CHAIRPERSON ASHFORD: It is April 27. The time is  
4 9:05. The Board meeting is commenced.

5

6 Item 1. Approve Transcript of January 26, 2006,  
7 Electrical Board Meeting

8

9 CHAIRPERSON ASHFORD: The first agenda item is to  
10 approve the transcript of January 26. Did anyone read all  
11 that?

12 BOARD MEMBER PARKER: With my magnifying glass, Madam  
13 Chairman.

14

15 Motion

16

17 BOARD MEMBER PARKER: I approve the minutes as  
18 printed.

19 BOARD MEMBER TRICARICO: Second.

20 CHAIRPERSON ASHFORD: We have a motion and a second  
21 to approve. Any discussion? All those in favor?

22 THE BOARD: Aye.

23 CHAIRPERSON ASHFORD: The minutes are approved.

24

25 Motion Carried

5

1 Item 2. Departmental Update

2

3 CHAIRPERSON ASHFORD: Department update. Is Patrick  
4 -- oh, there he is. Good morning.

5 MR. WOODS: Good morning, Madam Chair.

6 Madam Chair And members of the Electrical Board, it's  
7 a pleasure to be with you this morning. I was talking to  
8 one of your AG's beforehand -- I've been around public  
9 policy for about 23 years, and really when I look at the  
10 Electrical Board, this is the way it should be. You've  
11 got expertise around this table. You've got perspectives  
12 that come to an issue, and a healthy tension just makes  
13 for a good policy, a good process that we can serve the  
14 public mandate of the Department which really is public  
15 safety, but do it in a way that does not intrude into the  
16 business sector to the degree that it causes problems. So  
17 I just wanted to mention that. I always look at this  
18 program in the division and you as the model for how  
19 things should operate.

20 A couple of things. One is to let you know your  
21 fiscal condition is in good shape. I always like to look  
22 at that every quarter to make sure that your fund balance  
23 is at the level that you want. I always hearken back to  
24 that first meeting I had with the Electrical Board when  
25 the fund was down about \$3 million and the consternation

6

1 that it had from the Chair and Vice Chair. So you really  
2 are in good shape. You're about \$11 million. The thing  
3 that we need to ensure is that the legislature doesn't  
4 take that money. We need to use it for all the purposes  
5 that it was intended for. So we will be vigilant in that.  
6 But it's nice to have the support of the members around  
7 the table if those issues do come up.

8 In addition I want to give you some other types of  
9 news. One is we had our first statewide meeting of  
10 inspectors this month. And I thought it was -- it was  
11 both gratifying to see all of our inspectors, all of our  
12 electrical inspectors or plumbing, or boilers, elevators,  
13 factory assembled structures, employment standards,  
14 apprenticeship, just all the array, over 300 inspectors  
15 that came to Olympia. And I have a picture that I  
16 intended to bring with me, but it was -- we wanted to  
17 capture that historic moment because it was the first time  
18 in anyone's recollection that all the inspectors had come  
19 together for training. And the training was very  
20 important because it was how to do an inspection.

21 And I look at Jim Simmons, our vice chair, who many  
22 years ago gave us an admonition on what we should do and  
23 how we should treat our customer. And we've built on  
24 that. Mike Grunwald also came to our off-site. Many

25 people have come through the years -- Rod Coffman who's

7

1 the head of BOMA -- and that's the Building Owners and  
2 Managers Association -- and just to make sure that we're  
3 doing it the right way.

4 The process, as you know, can become a very difficult  
5 thing because if you're the contractor or the customer and  
6 you are dealing with an inspector, you want to make sure  
7 that's a good interaction.

8 I always tell folks that, you know, if you are in  
9 need, you don't want to talk to the Governor, you don't  
10 want to talk to the Director or the Assistant Director,  
11 you want to talk to the person who can help you. And if  
12 that is an electrical inspection, that is an electrical  
13 inspector.

14 So we really had a successful day.

15 Ron, I got to give him credit for pulling it off.  
16 Because he not only pulled all of the electrical  
17 inspectors together, but provided the opportunity for all  
18 the other programs. He look leadership in that and really  
19 was very responsive to our customers. I just wanted to  
20 mention that.

21 And at that meeting, Rod Coffman did come and gave a  
22 presentation to all of our inspectors.

23 And in addition, we did an afternoon presentation on  
24 making sure we're doing the right thing when no one is  
25 looking. I think that was the focus of the ethics for our

8

1 inspectors.

2 The other thing I want to mention, we had a very busy  
3 session. I know some of us around the table here were  
4 involved in that. And I just want to thank you for all  
5 the hard work that many of you did. But this is the  
6 result -- this is just for L & I -- our legislative  
7 package that we now have to implement. So if you could be  
8 somewhat patient with us during these next few months as  
9 we begin to try to put that policy into a systematic  
10 implementation.

11 Some of the things I know you'd be interested in is  
12 we did get those eight FTE's for inspection. And all of  
13 them -- Ron reviewed where the needs were, and we're  
14 looking where to put those inspectors. But at this stage  
15 they're all going into the inspection field to meet that  
16 demand. So that was a tremendous support in a time when

17 there was a reluctance to give new FTE's.

18 In addition, we had a successful bill on prevailing  
19 wage that many of you may be interested in, trying to make  
20 sure we get the funds into the prevailing wage program to  
21 ensure compliance and surveys and that the prevailing wage  
22 does reflect the wage of those counties.

23 We're also trying to do outreach. That's another key  
24 element. We're trying to inform people of these great  
25 opportunities and get them educated.

9

1 The other thing that I wanted to mention to you is  
2 this is an exciting time in state government. But it's  
3 also a challenging time. Our Governor is putting great  
4 emphasis on performance measures. And each of the  
5 programs and each of the agencies are having to meet those  
6 performance measures.

7 As she started up her government accountability  
8 program, she herself brings directors before her with her  
9 team to answer questions on what do you do, why do you do  
10 it, how you're doing, and where you're going. Some very  
11 simple questions, but very profound responses. So all of  
12 us are having to meet that.

13 And it's in that vain that I -- if you have time to  
14 think upon ways that we can do a better job.

15 One of the challenges that I face is making sure that  
16 the public safety element is always front and center in  
17 what we do.

18 One of the big concerns I have is the number of  
19 homeowners that do their own electrical work, and the  
20 number of homeowners that don't get permits, the type of  
21 jobs that occur because of that, people inherit those  
22 houses or they buy those houses, or it's not just the  
23 individual who's going to do the work that have to live  
24 the consequences, and we certainly don't want that to  
25 happen either, but we want to make sure that we're doing

10

1 everything we can. So I'm looking to see in each of our  
2 programs that we're doing outreach, we're doing  
3 communication. It would certainly be great to ensure that  
4 every electrical job done is done by a professional.

5 One of the things that I say to folks is: Even with  
6 professionals doing it, we find corrections. And even  
7 with people who are trained and have experience, we find  
8 corrections that are sometimes life-safety related and

9 could have serious consequences, either fire or shock to  
10 the individual. How much more so are you going to have  
11 that with people who are untrained and don't get a permit  
12 and don't get an inspection. So if there are ways that  
13 you hear across the United States or other parts, other  
14 jurisdictions that could help us with that, we certainly  
15 would welcome that.

16 Finally, I just want to let you know we have an HVAC  
17 interim working group that has met on three occasions.  
18 Its first meeting was in this room just after -- just  
19 before session ended I believe. And we met again over in  
20 Spokane. And that was a very productive meeting. Don was  
21 involved in helping us have that meeting.

22 I want to thank you, Don. It was just the  
23 graciousness of being over there in the facility and  
24 everything taken care of. It was tremendous. It was very  
25 productive.

11

1 And in addition, we were looking at a meeting down in  
2 Clark County.

3 And the purpose is really to try and pull together  
4 two things. One, is to pull the industry together for  
5 communication. Because I find if you can just get people  
6 communicating, it's amazing how many barriers begin to  
7 fall away.

8 And in addition, if they can identify scenarios for  
9 the legislature -- and that was the mandate that was given  
10 to us -- what are the scenarios in the regulation of the  
11 HVAC that would work. And the Department has no  
12 preconceived idea. We have no plan. We have no ulterior  
13 motive. Because I know when I get involved in things they  
14 think once L & I is there, we're about to regulate  
15 anything and everything. And that is not the case. We  
16 just want to make sure that all of the parties discuss the  
17 issues.

18 There's three main focus areas for that group. One  
19 is public safety. That's the key behind anything that we  
20 do. Is there a public safety issue? And what are they?

21 Two, is there a consumer protection issue? That's  
22 usually related to financial issues for the consumer, but  
23 also time and energy.

24 And three, what are the regulatory systems that are  
25 out there ranging from other jurisdictions, other states?

1 What are the types of regulations that make sense?  
2 We will then look at the different scenarios and  
3 present those to the legislature. If there is a  
4 coalescing on something that people feel this is really  
5 something that they want to do, then the Department will  
6 consider if we want to proceed with request legislation.  
7 But at this stage we do not intend to introduce  
8 legislation on this issue. We just want to provide the  
9 scenarios to the legislature.  
10 Those are the key elements, Madam Chair, members of  
11 the Board. Are there any questions?  
12 CHAIRPERSON ASHFORD: Sort of a question. We have  
13 several new Board members, and at the beginning of your  
14 report you spoke of our funds and the legislature maybe  
15 dipping into them. Could you give the new Board members  
16 some history on how that happened and what we can do to  
17 prevent that from happening again?  
18 MR. WOODS: Yes, Madam Chair.  
19 And it's always hard to go over those painful  
20 memories, but I certainly will.  
21 First of all, I think the fund has always been a big  
22 issue for the Board because it's your money. You feel  
23 very strongly that this money has been generated, the fees  
24 have been levied for the purposes of ensuring public  
25 safety. As we mentioned, the fund fluctuated at times,

13

1 but really your mandate to me was have enough funds in  
2 place that this program can operate for six months without  
3 any additional revenue coming in. And we've tried to  
4 maintain that through the years.  
5 The challenge we had about four or five years ago is  
6 that the State was undergoing some fiscal issues. It  
7 looked -- the legislature and the executive branches, not  
8 just the legislature. But the legislature and the  
9 executive branch looked through all the various agencies  
10 and all the various funds, and almost every fund had to  
11 contribute to the General Fund. The Electrical Board was  
12 one of those. The challenge to us was it was such a  
13 dramatic reduction in the fund. We had \$7 million taken  
14 out of that fund. So it was -- it could have been  
15 devastating if we did not have the right revenue-  
16 generating system in place. I'm thankful that we did.  
17 We've always kept our fees not excessive, but making sure  
18 that it's bringing enough money. So that was a challenge  
19 to us.



20 Since that time, I think the Board and the various  
21 stakeholders have communicated that they do not want to  
22 see that happen again. Because it could have serious  
23 consequences on the program. Things that you want to do,  
24 the upgrading of or adding of new FTE's like you did this  
25 year, that would not have been able to happen if you

14

1 didn't have a good balance in your fund. Other things  
2 that would not be able to happen is the increases we  
3 provided to our inspectors. They were overdue for a wage  
4 increase. They got 12 and a half percent -- I believe,  
5 Ron --

6 SECRETARY FULLER: Uh-huh.

7 MR. WOODS: -- wage increase last year. That would  
8 not have been able to be funded if we did not have a fund.  
9 Because we are a dedicated fund; we don't draw on the  
10 General Fund. So I think that's the vigilance.

11 The one thing that has always been brought up and I  
12 think it would be a tremendous success if we can get to it  
13 one of these days is ensuring that the interest on the  
14 fund stays with the fund. That is something that I think  
15 Chairs down through the years have wanted to see happen.  
16 And hopefully, one of these days we'll be in that  
17 situation.

18 The good news is on the prevailing-wage side, we did  
19 get our money back. Because 30 percent of our prevailing-  
20 wage dollars were being drawn off to the General Fund.

21 So the legislature has seen the benefit of ensuring  
22 that these programs that generate their own funds do keep  
23 those for the purposes that they were intended. So I  
24 think it's going to take vigilance, Madam Chair, to make  
25 sure that happens -- or it does not happen. And we will

15

1 be, you know, carefully monitoring that.

2 CHAIRPERSON ASHFORD: Thank you. Any questions?  
3 Thank you, Patrick.

4

5 Item 3. Budget Report

6

7 CHAIRPERSON ASHFORD: The budget report seems to be  
8 fitting for right now.

9 SECRETARY FULLER: It's way back beyond all of those  
10 transcript pages. It's hard to fold the book now.

11 Okay. Josh is off taking a trip to San Diego today,

12 so I'm going to fill in for him on the budget.  
13 We've got the budget through February in your packet.  
14 Right now, we're -- well, it shows there I think \$26,157  
15 overspent right now for this year. Through March it's  
16 actually dropped a little bit from there.  
17 So we're not too concerned about that right now  
18 because we do have new FTE's coming on. And all of those  
19 folks except for one are going to be hired on a  
20 non-permanent basis. So that's going to give us some  
21 flexibility in the regions to manage their budgets better.  
22 So their intent is that we're going to bring those  
23 eight new FTE's on July 1st and then work them through the  
24 peak season and then lay them off during winter and bring  
25 them back on in the spring again. The layoff period will

16

1 get us back into alignment with the budget again. So  
2 we'll be at zero again next June 30th.  
3 So I think overall the budget's in pretty good shape  
4 right now. The biggest problem with it is that most of  
5 the regions in recent years have filled all their  
6 positions with full-time people. And as soon as they do  
7 that, they automatically overspend by five percent. So  
8 they're changing their habits a little bit right now so  
9 that they can get the budget back into alignment.  
10 The eight FTE's that we got that are coming on July  
11 1st are going to be distributed pretty much all across the  
12 state. The only region that did not get any of the eight  
13 was region 2 in King County because they're meeting their  
14 expectations now of response times and compliance. They  
15 routinely do all their inspections 90 percent and faster,  
16 up to 92, 93 percent sometimes, in 24 hours. So they did  
17 not get any additional help. But the other regions all  
18 did.  
19 Jim.  
20 BOARD MEMBER SIMMONS: Ron, one quick question on  
21 that. Do you feel there's going to be a problem getting  
22 and keeping qualified inspectors when you hire only on a  
23 temporary basis? Is that going to be an issue you think?  
24 Or are there enough retired electricians that are looking  
25 for something to do to fill those spots? Or -- I just

17

1 wonder about the full-time issue.  
2 SECRETARY FULLER: We've talked about that a lot. We  
3 don't feel that that's going to be an issue. Up until

4 about four years ago, we routinely had temporaries and did  
5 not have trouble filling those positions.

6 This actually gets us back to about the same number  
7 of temps statewide that we had before. So we just don't  
8 feel like there's going to be a major concern over that.

9 You always have to watch who you're bringing in. You  
10 want to bring in people that either have previous  
11 experience or they've been foremans on jobs or those kinds  
12 of things.

13 The entire hiring process has pretty radically  
14 changed now for us compared to what it was before the  
15 bargaining agreement. There's a lot more -- not a lot  
16 more, but there's some more hoops to jump through I guess  
17 to make sure you get quality applicants.

18 One of the things that the supervisors, for instance,  
19 have been working on the last couple of months are all the  
20 job descriptions. This is the first time right now that  
21 we've ever had job descriptions for inspectors that are  
22 the same in every region. So we believe we'll be a lot  
23 more consistent in who we hire and that they meet the  
24 qualifications that we need. There's going to be a much  
25 more formal screening process and interview process than

18

1 we've had in the past.

2 So we think that once we actually get a pool of  
3 temporaries built up again that we'll be able to use those  
4 people and get to them a lot easier than we did in the  
5 past actually and have probably more quality applications.  
6 Because before, it tended to be -- you know, the person  
7 that wanted the job came and talked to the supervisor and  
8 convinced him he was a good guy, and he got hired as a  
9 temp. That was pretty much the process. So a lot more  
10 formal this time than what we've had in the past.

11 The one position that is going to be permanent is the  
12 one in Wenatchee. Because we took over Wenatchee, if you  
13 remember, about a little over a year ago. That work's not  
14 going away, so that's the one that's going to be filled  
15 permanently.

16 So we're really only adding seven temps. And today  
17 we only have two temps in the entire state. So that's not  
18 very many. So this gets us, like I say, back to where we  
19 were in years past, which is a good thing for the program  
20 I think.

21 BOARD MEMBER NEWMAN: Ron, are any of those folks  
22 going to be -- are they all going to be field people doing

23 inspections in the field? Any dedicated to plan review,  
24 anything like that?  
25 SECRETARY FULLER: No. They're all going to be

19

1 inspectors. All eight of them.  
2 BOARD MEMBER NEWMAN: How do you manage -- are you  
3 seeing like -- King County is just ripping. I mean, are  
4 we going to be able to man that as far as plan review  
5 goes?  
6 SECRETARY FULLER: Plan review still comes to central  
7 office anyway. We take care of plan review. And so far  
8 we're up-to-date pretty much in plan review. This is the  
9 peak season for us because of schools. It's always  
10 helter-skelter in plan review right now.  
11 But for the inspectors in King County, they've  
12 consistently been able to, like I say, be at least 90  
13 percent of their inspections within 24 hours for the last  
14 several years. So we just don't see the need there right  
15 now to add inspectors.  
16 They're actually giving up a little bit of their  
17 region to Region 5. The east side of the I-90 pass, for  
18 instance, is going away for them.  
19 Federal Way just annexed 30,000 houses for their  
20 jurisdiction. So that will go away.  
21 So in reality, their workload just went down a little  
22 bit in the last two weeks.  
23 BOARD MEMBER PREZEAU: I have a quick question.  
24 Actually, Ron, I have two.  
25 One is I don't know what the definition is of a

20

1 "non-permanent employee." I don't know -- if you can  
2 explain that to me?  
3 SECRETARY FULLER: Non-permanent now is the same as  
4 what we used to call a temporary. So there -- it depends.  
5 You can have non-permanents that work 32 hours a week or  
6 40 hours a week, whichever. But they're more or less an  
7 at-will employee. So if work changes or we get into a  
8 budget crisis or whatever, they can be let go like any  
9 other layoff that you would be familiar with out in the  
10 field with contractors. If you hire permanent, then you  
11 have to go through the riff process. And that's very  
12 complicated and disruptive for everybody.  
13 BOARD MEMBER PREZEAU: Is there a maximum number of  
14 hours then they can work? Like say if the workload in,

15 you know, whatever region that you're having non-permanent  
16 inspectors, if the workload merits having them work, you  
17 know, 2,000 hours a year, that's not prohibited as a  
18 non-permanent employee?  
19 SECRETARY FULLER: No. The new contract -- I believe  
20 the new contract actually technically allows us to work a  
21 non-permanent up to two years, and there's no hours on  
22 that. It used to be nine months before the contract that  
23 started in July. I believe it's two years now. But  
24 typically we wouldn't run anybody but six or seven months  
25 probably.

21

1 BOARD MEMBER PREZEAU: So you don't anticipate having  
2 these guys stay on for the full two years maybe?  
3 SECRETARY FULLER: No, no.  
4 BOARD MEMBER PREZEAU: And then the only other  
5 question -- and you sort of answered part of it -- was you  
6 said about Federal Way annexed 30,000 homes. But it's  
7 sort of in that context you say that Wenatchee has turned  
8 over their inspection responsibilities to the state. And  
9 I was just curious if you've been hearing rumors from any  
10 other municipalities that are thinking about off-loading  
11 their inspection responsibilities to L & I and maybe we  
12 would pick up more inspection duties. Have you heard any?  
13 SECRETARY FULLER: No.  
14 BOARD MEMBER PREZEAU: You haven't gotten any --  
15 SECRETARY FULLER: Nobody wants to give them back.  
16 Because it's typically a pretty good revenue source for  
17 the cities.  
18 So the only conversations that we're having right now  
19 is Shoreline may take theirs. We're doing their  
20 inspections now, but they may take theirs. But we're  
21 talking to them, and maybe we will be able to set up  
22 something similar to what we're doing with Auburn where we  
23 keep doing the inspections for them. We don't know where  
24 that one's at yet, though.  
25 BOARD MEMBER GUILLOT: Ron, I have a -- first of all,

22

1 I want to compliment you on the inspectors that you do  
2 have. I think they're doing an excellent job.  
3 On the outside line that we have, we only have four,  
4 maybe six inspectors for the entire state. Now, there's  
5 some issues that we need to work out in terms of who  
6 represents them, and I understand that that's in the

7 works. But we're experiencing a tremendous amount of  
8 growth statewide, especially with the windmill projects.  
9 High lines are being built, the infrastructure. And we're  
10 going to be pursuing at some point in time to get more  
11 inspectors for the outside lines. See, we only have six  
12 inspectors now. But they're good workers.

13 The problem that we have is their compensation. It's  
14 hard to get them to come to work because there is a  
15 disparate treatment in terms of wages between inside  
16 inspectors and outside inspectors. Just giving you a  
17 heads-up.

18 SECRETARY FULLER: Okay.

19 Some of you -- if you're looking through this budget  
20 report in detail, you're going to notice that the -- I'll  
21 get the right title here -- in the regions, the pages that  
22 are called field support and other, that some of them are  
23 pretty significantly overspent. And the primary reason  
24 for that is that five percent vacancy rate that I was  
25 talking about. All of that money, the budget office has

23

1 dumped into one account rather than split it up between  
2 inspectors and the administrative support. So they look  
3 like they're a lot more overspent than they are. But  
4 that's the reason for those big negative numbers  
5 primarily.

6 And we also had a few retirements this year that have  
7 been pretty significant buy-outs. I know that we had one  
8 in Region 2 that was \$20,000 for a clerical retirement.  
9 So when people retire, sometimes they cost us a lot of  
10 money.

11 Okay. Any other questions on budget? Okay.

12

13 Item 5. Secretary's Report

14

15 SECRETARY FULLER: The secretary's report. The fund  
16 balance as of February was \$11,500,000. We feel like  
17 we're still making great strides in customer service,  
18 especially with the on-line systems. It's really exciting  
19 to me to keep putting these on-line system numbers on the  
20 Board reports. They're even better now than they were  
21 when this one came out. We're actually up to 77 percent  
22 of all permit sales now on-line total. That's everybody.  
23 51 percent now of all inspection requests are being done  
24 on-line. So that's a huge savings for us from a clerical  
25 point of view. It gets things to the inspectors a lot

1 faster. It's enabling us I think to get to inspections  
2 faster than we used to in the past.

3 In August last year, we turned on the on-line systems  
4 to homeowners. So July 31st we had zero homeowners buying  
5 on-line. Today we have 20 percent of all the homeowners  
6 buying on-line even. And we haven't even advertised that.  
7 Because we didn't -- we weren't really comfortable if they  
8 knew how to fill out a permit all by themselves. But they  
9 seem to be succeeding. So we've gone from zero to 20  
10 percent in just seven months basically. So that I think  
11 shows how simple the systems really are.

12 Jim?

13 BOARD MEMBER SIMMONS: Yeah, Ron. A quick question  
14 on that.

15 As Patrick stated briefly in his talk, one of the  
16 things that I am very concerned about and we continue to  
17 deal with is homeowners and homeowner wiring. Any idea  
18 how many of the permits that are bought statewide on an  
19 annual basis, what percentage of those are bought by  
20 homeowners versus contractors, or is there any way to  
21 track that?

22 SECRETARY FULLER: Sure. We track everything. It's  
23 about 15 percent of the total. So that's -- it's less  
24 than 20,000 that actually buy permits.

25 The biggest problem with the homeowners is that they

1 don't buy permits.

2 BOARD MEMBER SIMMONS: Correct.

3 SECRETARY FULLER: Because they go to Home Depot,  
4 they go home on Saturday and they do their job, and that's  
5 that.

6 So that's -- we've made a conscious decision in the  
7 last 12 months that even though they are a significant  
8 problem, that we're not going to probably target them, per  
9 se, right now for compliance or to get inspections. And  
10 the biggest reason is just workload. We feel like that if  
11 we got the homeowner permits that are there that should be  
12 permitted and inspected, that we'd probably have to triple  
13 our inspection force to do the inspections. That's how  
14 many we think are -- we believe only ten percent buy  
15 permits that are required. So if you multiply what we get  
16 times ten, it would actually require us to almost triple  
17 our workforce. So it would implode the program if we were

18 successful.

19     So what we're going to do in the -- and I'm kind of  
20 getting off base here, but why not. What we're going to  
21 be doing in the next few months is rolling out the  
22 Correction Writer, the program that you heard before where  
23 we're tracking the corrections specifically by contractors  
24 and regions and owners and what they are and all the  
25 different details. And one of our new proposed Scorecard

26

1 measurements is to take a target audience of contractors  
2 who get the most corrections in their regions and  
3 specifically work with them through the year to get their  
4 number of corrections down to the norm. So we'll be  
5 taking -- it was supposed to roll out tomorrow, but IS  
6 doesn't have the program ready. So now we're backed up a  
7 month. But hopefully starting in September I will have a  
8 target group to work with statewide. And our intent is to  
9 outreach with them the best we can and try to improve  
10 their practices over the year. And if outreaching doesn't  
11 work, then we'll use compliance to improve their  
12 performance.

13     So we number one, drop the corrections that they're  
14 getting and probably improve the ones that we don't catch  
15 that they're doing, and also that we reduce our workload  
16 and let us do more other things like go after homeowners  
17 that are not getting permits, those kinds of things.

18     So a very different shift in mentality. Because  
19 before we'd go out, do the inspection, write the  
20 correction -- it's used as a training tool in a lot of  
21 cases for trainees and journeyman, and they go fix them,  
22 and then we go back again. So we want to get them out of  
23 that mindset of getting corrections at all.

24     So we'll be working with a specific group of  
25 contractors through the year. We can't keep adding;

27

1 otherwise, we'll never be able to show that we're  
2 accomplishing anything. So we're going to pick a set  
3 group and work with them through the year, through next  
4 June, and see if we can't get their number of corrections  
5 radically reduced and make them better than the norm  
6 actually I hope. It's going to take a lot of outreach  
7 effort on central office's part and the supervisors  
8 especially to get that to happen I think.

9     CHAIRPERSON ASHFORD: Ron, has the Department ever



10 given consideration to a two-tier inspector position where  
11 there would be inspectors that would concentrate on  
12 commercial/institutional/industrial, and then a group of  
13 inspectors that would do single family and small  
14 multi-family residences?

15 SECRETARY FULLER: We've talked about that in the  
16 past. But in reality it just doesn't work very well.  
17 Because what we find is that every inspector's area has  
18 everything in it. And to split them apart like that just  
19 increases your work.

20 CHAIRPERSON ASHFORD: But in the future if you want  
21 to target homeowners that aren't getting inspectors --

22 SECRETARY FULLER: Well, I think the best way that  
23 we'd be able to accomplish that actually is probably the  
24 fraud team and ultimately expanding that in the future.

25 The electrical CORE team as you all know is only

28

1 three people. But this last -- the first quarter of this  
2 year, which they started work in January, they've issued  
3 about 38 percent of all the citations and written warnings  
4 in this state. Just those three guys. And it's primarily  
5 all come from referrals from contractors who didn't get  
6 the jobs or, you know, old employees in a few cases. But  
7 mostly it's -- I know one day I was up in Tukwila, and  
8 that one CORE team member got five referrals from the city  
9 of Tacoma area from contractors turning in their employees  
10 who were moonlighting on Saturday. So they're doing a  
11 tremendous --

12 CHAIRPERSON ASHFORD: As a run-into your secretary's  
13 report -- we're talking about inspections right now --  
14 several Board members received a letter regarding the  
15 class B certificate. And I know four people right there  
16 have some quick questions that they would like to ask. I  
17 don't know if you received the letter. I did not.

18 SECRETARY FULLER: About? Well, I don't know what  
19 letter you're talking about.

20 CHAIRPERSON ASHFORD: Don.

21 BOARD MEMBER GUILLOT: I got a letter, and it's my  
22 understanding that we were going to share this letter with  
23 you later on. I just had some questions about the class B  
24 license.

25 Being a new Board member, if you could explain to me

29

1 how long has this license been available to the

2 contractors? And in your previous report, that it was  
3 really popular, this letter does not support that  
4 statement of popularity of the program. So -- and I know  
5 we're blindsiding you on that, but we just had some  
6 concerns. But my issue would be, could you explain to me  
7 what a class B license is?

8 SECRETARY FULLER: It's not a license. It's a permit  
9 label.

10 BOARD MEMBER GUILLOT: Or a permit. I'm sorry.

11 SECRETARY FULLER: It's a \$10 label that for simple  
12 jobs, primarily low voltage work, that enables us to  
13 inspect on a random basis.

14 Obviously I haven't seen that letter or anything.  
15 But the feedback that we've gotten from most people is  
16 positive. It will eliminate about probably 30,000  
17 inspections that we have to do every year.

18 We're still writing -- and I see that I failed to put  
19 it in the Board package this time Tracy's report. I will  
20 get that to you all, though. We're still writing very,  
21 very few corrections on these jobs. I'm going to say that  
22 we've probably written less than 20 corrections on over 2-  
23 or 3,000 jobs that we've inspected.

24 It started in November. So we're not finding  
25 corrections. And if you don't find corrections, it makes

30

1 you wonder, you know, that you really should be doing, you  
2 know -- I think it confirms that we shouldn't be doing  
3 inspections on every one of those jobs. Because we're  
4 just not finding problems with them.

5 The biggest problems that people have that usually  
6 complain when you research their issues is that they're  
7 not filling out the forms right, the labels right. And as  
8 soon as they don't do that, we immediately send them a  
9 warning and tell them that they need to fill out those  
10 labels correctly. We've had people, for instance, fill  
11 out the label of electricians and not put their license  
12 number on it. We want to know who does that work so that  
13 if we do find a problem we can target them. We routinely  
14 get labels returned to us that don't have the owner's  
15 phone number on it so that we can make the contact to  
16 access the inspection for them.

17 One of the best things for contractors about this is  
18 that they don't have to arrange access for an inspection.  
19 It's our responsibility to do. If we can't get it done,  
20 then we have to go back to the contractor.

21 But those are the biggest issues I think people have  
22 had is they're just not either inclined or able to fill  
23 out the labels correctly.  
24 We're just not finding problems with those jobs,  
25 though.

31

1 BOARD MEMBER GUILLOT: I had no idea of the volume  
2 that you're talking about. Just to get one letter I --  
3 SECRETARY FULLER: It's huge. There's actually --  
4 just the items that we added in the -- I think it was the  
5 November when we did the special WAC rule change, we  
6 estimated that just that one addition of the thermostats  
7 and the low voltage and telecom was going to actually save  
8 the contractors a million dollars a year in permit fees.  
9 I mean, that's huge. It's a huge volume. What it's done  
10 is let -- instantly almost within 30 days I could see a  
11 difference in the response rate for the regular  
12 inspections by probably three or four percent statewide.  
13 I mean, that's how much time was saved from us just  
14 getting to those places, doing the little bit of paperwork  
15 that we had to do and getting out of there again.  
16 Primarily you save time for the inspectors on the security  
17 permits because those are typically a special trip. You  
18 usually can't get in the first time so you waste probably  
19 at least a half hour on one of those inspections. And now  
20 we have the appointment if we want to go. Everybody knows  
21 we're coming. We haven't had any problems with that kind  
22 of thing. So it's worked really good for most people.  
23 BOARD MEMBER (D.S.) BOWMAN: Tracy shared the letter  
24 with Dave and I this morning before the meeting, and there  
25 was some holes in it like saying that there have been

32

1 absolutely no attempt by the Department to train  
2 electricians on the proper use of them. So there's -- it  
3 sounds like somebody's not listening or flunking classes  
4 or whatever.  
5 But I had another question for you back on this  
6 residential thing. I have to wonder sometimes how many  
7 residential homeowners actually know you have to have a  
8 permit. And has the Department ever contacted any of the  
9 insurance companies, sent out a letter saying that we will  
10 not cover any fires caused by unpermitted installations?  
11 SECRETARY FULLER: We have had some feedback in the  
12 past that a few insurance companies do that. And

13 sometimes lending institutions when the house is being  
14 sold. If something pops up, and their inspector, for  
15 instance, sees something that's blatant, they start  
16 looking for permits and inspections. But it's actually  
17 really rare that the lenders or the insurance companies,  
18 either one, do anything. I mean, that's part of doing  
19 business for them. I think they know they're going to pay  
20 so much money out, and as long as they don't pay more,  
21 they're comfortable with their profit margin. So I think  
22 that's the way they do business. I don't think they're  
23 concerned about the safety as much as they're concerned  
24 about what their profit is.  
25 BOARD MEMBER GOUGH: Madam Chair, in lieu of the fact

33

1 that not all the Board members received this letter, I  
2 read it, I called the individual and spoke with him. He  
3 seems to be a very conscientious person that's just trying  
4 to do their work within the letter of the law. Would it  
5 be possible that we could maybe each get a copy of it -- I  
6 have extras here -- and maybe at our next Board meeting  
7 take a little bit of time just to talk a little bit about  
8 the class B permit process?  
9 CHAIRPERSON ASHFORD: Yes, we can put it on next  
10 meeting's agenda if that is what the Board would like to  
11 do.

12 Jim has a question.

13 BOARD MEMBER SIMMONS: I would like to make a few  
14 comments on the class B because I know that a lot of the  
15 Board members are not using them, nor do they have them in  
16 their industry or the availability of them and maybe a  
17 limited understanding of them.

18 I have been using them -- as a matter of fact, I was  
19 the first one into L & I's office and bought the first pad  
20 of them, pad number 00001 to 000 -- anyway, I bought the  
21 first pad. So I am I think pretty experienced with them.  
22 And I'll tell you that we used a few of them wrong to  
23 begin with too because there was not originally very much  
24 information on how to use them, where you could use them.  
25 We clarified that. We got clarification from the audit.

34

1 We had to go buy permits for a couple jobs, as this  
2 gentleman in this letter had to do. And I will tell you  
3 that since we had to do that, we went back, looked at what  
4 the policy says about them, and clarified it to our

5 employees. We have been using them on a consistent basis  
6 and have had little or no problems with them.

7 I think that this guy in my opinion doesn't  
8 understand what the class B's are to be used for. And  
9 it's very well spelled out in the RCW and the WAC where  
10 and when you can use them. And part of it is training  
11 your employees as to, is this a qualified job for a class  
12 B permit or is it not? Because if they get out on the  
13 job, and you've sent them with a class B permit because  
14 the customer says, "I want to add one outlet," and they  
15 get out there and the guy says, "Hey, while you're here,  
16 can you bring a new circuit to my bathroom," I'm sorry, it  
17 throws it out the window. It's not a class B job anymore.  
18 And a big part of that is simply in my opinion him  
19 possibly not educating his people properly or his  
20 understanding of what the class B is and how it should be  
21 used.

22 So we have had very little problems. We did have to  
23 go buy some permits, just as this guy did. I use them.  
24 We use them. It is a phenomenal tool in my opinion. As  
25 Ron said, they're used for very minor electrical work,

35

1 adding an outlet, adding a switch in somebody's house.  
2 Minor stuff that electricians should be able to do with  
3 little or no supervision. It's just basic, basic work.  
4 This is not rocket science stuff. And for that  
5 application, in my opinion, they're very appropriate and  
6 work very well. And I don't think this guy's letter holds  
7 much water in my opinion.

8 So that was my opinion. Thank you.

9 BOARD MEMBER GOUGH: I would say that you're in a  
10 unique position because one, you're a Board member and  
11 you're very in tune with the WAC rules and the RCW's and  
12 the NEC as all contractors should be. But there are many  
13 out there that are not as informed as you are and that are  
14 trying to work within the law that probably do need some  
15 more guidance and help in implementing the class B's.

16 BOARD MEMBER (D.S.) BOWMAN: I'd like to add to that.  
17 A couple months ago there was a stakeholder meeting -- in  
18 Spokane -- they had around the state. And I attended  
19 that. And there were probably a couple hundred people  
20 there, a hundred and fifty. They went over class B very  
21 thoroughly.

22 So my feeling is this person isn't attending  
23 stakeholder meetings because the comment about the

24 training isn't valid. The training is there, and it's in  
25 the WAC rules. If he's keeping on top of the WAC rules,

36

1 then this shouldn't be an issue. I mean, yeah, and I can  
2 understand misinterpretations, but the comment about no  
3 training whatsoever isn't valid.

4 SECRETARY FULLER: We've actually -- besides those  
5 kinds of things we've actually written multiple articles  
6 in Electrical Currents. If someone just reads the  
7 newsletter alone, they should be able to deal with the  
8 class B label, period. If they don't read the newsletter,  
9 then they won't be able to. We dedicated almost a whole  
10 page a couple of months ago on how to use the class B  
11 label and the problems we were finding.

12 So, you know, I will go back to this fellow and talk  
13 to -- we will talk to him from central office. And  
14 probably I'm going to ask the supervisor in Spokane to go  
15 out and visit with him and show him how to use these  
16 things. But they're not rocket science. And it's very  
17 clear what you can and can't use them for I think if you  
18 read the rule.

19 If you go out, like Jim said, and you run into a  
20 different situation, you don't use the class B; you put  
21 the provisional label up instead. It's also a \$10 label,  
22 and it lets you start any job you want for \$10, and you're  
23 legitimate until you buy the real permit.

24 A person always has the option of not using the class  
25 B's if they want to. If they want to pay the full-blown

37

1 price, those fee schedules are still there, and we'll go  
2 inspect them. And we do have people that do that. Just  
3 because they don't -- what they've told me is they don't  
4 trust their own employees to fill them out right. So they  
5 don't want to take the chance that I'm going to come back  
6 and have compliance against with them. So there's always  
7 that option available. If you want to pay the money, you  
8 can buy the regular permit and use them. So there's lots  
9 of options for people to do.

10 We'll investigate it and try to make the fellow  
11 happier.

12 CHAIRPERSON ASHFORD: There's been a lot of  
13 discussion on this. But just kind of a point of  
14 information: Every electrical contractor has an  
15 administrator. And it's the administrator's

16 responsibility to see that the laws are complied with.  
17 SECRETARY FULLER: Right.  
18 CHAIRPERSON ASHFORD: And if they're not aware of  
19 them, then they need to make themselves aware.  
20 If the Board still would like to see this issue on  
21 the July agenda, we can do so.  
22 BOARD MEMBER GUILLOT: Madam Chair, just for the sake  
23 of time because I am a new member here, if I get any more  
24 of these, I'm just going to refer them to you? Or who do  
25 I refer them to to put them on the agenda? Because we

38

1 have a full agenda today. And I think that -- I mean, I  
2 got this delivered to my home, and there's a lot of  
3 contractors out there, and I don't want my mailbox full.  
4 So --  
5 SECRETARY FULLER: Things probably should come to me  
6 as the secretary, and we'll put them in a packet. And  
7 when I talk to Gloria, if we have some unusual thing like  
8 this come up, then we're going to decide -- she's going to  
9 decide whether to put it on the agenda or not.  
10 Okay. So we'll move on.  
11 BOARD MEMBER PREZEAU: This is not about class B's.  
12 I just was curious about when you're talking about this  
13 pool of contractors that the inspectors are going to work  
14 with to reduce their corrections, just can you give me a  
15 rough profile, how many, what they sort of look like? And  
16 I'm more interested in how many there are, I guess.  
17 SECRETARY FULLER: Sure. And I can't answer that  
18 question yet because I don't have the data. When  
19 Correction Writer rolls out, then we're going to spend  
20 three months collecting data. And then I'm going to be  
21 making some decisions on how large a pool that's going to  
22 be, what they -- you know, how far above the norm they are  
23 basically.  
24 BOARD MEMBER PREZEAU: So they haven't been  
25 identified yet.

39

1 SECRETARY FULLER: No, haven't been identified. But  
2 my intent is to develop a norm for a contractor that says  
3 every contractor that gets an inspection done gets .5  
4 corrections on that job. And somewhere I'm going to pick  
5 a number that I think I can deal with, whether it's the  
6 top 15 or 20 or what in a region. It's probably not going  
7 to be much more than one of those two numbers. I'm going

8 to pick the worst ones in that region and try to get them  
9 to that normal level. And who knows what they will be  
10 above that. But I'm sure it's probably going to be  
11 significantly above the average because most contractors  
12 don't get very many corrections. It's like compliance:  
13 only seven or eight percent of people that have a license  
14 ever get a ticket. But the ones that get them get them  
15 routinely. It's the same people over and over and over.  
16 So corrections are the same way. That's our feeling  
17 anyway, our anecdotal feeling. But we'll have the data in  
18 a few months to be able to tell.  
19 We're actually going to -- I'm behind schedule now.  
20 But in the May Currents we were going to throw that out to  
21 the contractors in the newsletter. I'm going to delay  
22 that now. So theoretically in June now we will have our  
23 first letter saying, "Okay, we're starting to collect data  
24 now, and we're going to pick the worst contractors, the  
25 ones that get the most corrections and work with them

40

1 through this coming year. Be expecting that. It might be  
2 good if you tune your people up now so that you're not one  
3 of those people." Because obviously you don't want to be  
4 one of those people. You don't want to be those.

5

6 Item 4. RCW/WAC Update

7

8 SECRETARY FULLER: Okay. The next item was  
9 legislation. Like Patrick had his giant book there of all  
10 the bills of L & I this year. Fortunately for us, we only  
11 had two that really affect directly the electrical  
12 program. One was Substitute Senate Bill 6225 and  
13 Substitute House Bill 1841.

14 6225 was the pump installers bill. And both of these  
15 bills -- I think both of them actually had only one vote  
16 against them in the House and the Senate, one vote each.  
17 So they were very consensus-based bills. Had a lot of  
18 support once they were finalized.

19 The pump installer bill, to be simple for you I think  
20 to understand, you keep contractors separate, you keep  
21 electricians separate, you keep trainees separate.

22 For contractors, what this does is allow a person  
23 doing pumping work to have a single license, use only  
24 their contractor registration bond and insurance so they  
25 don't have to buy any \$4,000 electrical bond. They will



1 have to have an electrical administrator to have their  
2 electrical endorsement.

3 I think it's simpler if you think of this license as  
4 an endorsement. There will be a plumbing line on it, and  
5 there will be an electrical line. Both boards will still  
6 have -- and programs have oversight over their piece of  
7 the endorsement. But it will simplify the process of  
8 renewals, especially for contractors. So that's to change  
9 them -- for them, it's mostly process.

10 For the electricians and plumbers, they will be able  
11 to have a similar one-piece certificate with a plumbing  
12 endorsement on it and electrical endorsement. They will  
13 be able to use the same continuing ed. They'll only have  
14 to renew once instead of twice for their plumber and  
15 electrician certificate. So it simplifies their process  
16 also.

17 A part of -- a big piece that it did -- not for us,  
18 but for the plumbing part is to actually allow the  
19 plumbing board -- it expands the plumbing board by two  
20 members, first of all. And it allows them to create  
21 specialties for this industry.

22 So right now there's two specialties that mirror our  
23 (03) and (03A) specialties. And that was a -- that was a  
24 big, big deal for the pumping industry because they have  
25 not been allowed in the past to, for instance, put their

1 pressure tank and pressure switch and whatever controls  
2 inside of a garage. They were restricted out to the well  
3 house. So this lets them get into the structure somewhat  
4 with their piece of the plumbing. So that was a huge  
5 piece for them.

6 And then the trainees, it combined them into a  
7 trainee card again, a single card with a plumbing line and  
8 electrical line. It allows them to utilize coincidental  
9 on-the-job experience. So as they're going up both sides  
10 they're accumulating hours for the same time for both  
11 pieces of the certificate. And that's the first time  
12 that's ever been done I believe.

13 They're also able to use their continuing ed in  
14 coincidental fashion. The plumbers have for a year or two  
15 now have had training requirements for continuing ed.

16 Our other bill now requires a similar classroom  
17 training, 16 hours to renew. So coincidental things there  
18 for them too. So hopefully it will reduce their

19 processing and just make life easier for everybody. It'll  
20 make our life a little bit more difficult because we're  
21 going to have to hand process all these things to  
22 implement computer systems to handle this group. It would  
23 have cost us almost \$200,000. And there's only 6- or 800  
24 of them total. So it wasn't cost effective, so our intent  
25 is that we're going to manually do all the typing on these

43

1 certificates, and most of the processing is going to be  
2 done manually. Very little computer changes will be done  
3 on this one. So it was a big bill.

4 It's also being looked at as one of the options for  
5 the HVAC industry right now. That's one of the options  
6 that's on their agenda as a possibility for the HVAC  
7 industry. I personally think if they adopt it for them,  
8 that it will expand into some of the other trades that we  
9 have specialties for, like signs and the maintenance  
10 specialties and door and gate, particularly those.  
11 Because they're almost all electrical contractors and  
12 general contractors at the same time. So it could help  
13 the contracting end of it pretty significantly. Probably  
14 not the electricians because there's not a plumbing aspect  
15 to those except for the maintenance people. But it's got  
16 big possibilities I think.

17 1841 was a -- it started out as an IBEW-sponsored  
18 bill, and ultimately all the business folks jumped on  
19 board with that one too. And it requires 16 hours of  
20 classroom continuing ed for all trainees to renew. The  
21 loophole in it is it doesn't require eight hours every  
22 year. So theoretically a person, especially a specialty  
23 person, could get their OJT, test and examine and never  
24 renew and never take a class until they're a electrician.  
25 So that's the downside of it.

44

1 And we're probably going to have a lot of problem  
2 with procrastinators, people that think they're going to  
3 pass that test at the last minute and don't, and try to  
4 renew, and they're not going to be able to because they  
5 don't have their continuing ed, and they can't just go out  
6 on the Internet and get it because it's classroom only.  
7 So that's going to be a problem for us in a year or two  
8 probably with some of the people that are applying.

9 But it's a good step forward. And it's a little  
10 bitty baby step I think for trainees. But it at least

11 gets the repeat trainee people into the classroom at some  
12 point in time. So a good bill in that part I think.  
13 Rule revisions. Effective date for our new rules is  
14 May 1st. And we're also opening up rules for -- I'm kind  
15 of combining the next one here too so we're going to do  
16 kind of the RCW/WAC update at the same time on all these.  
17 But May 1st through the 15th, we're accepting outside  
18 proposals for the WAC rules. And in your package, you've  
19 got the special edition newsletter for this WAC proposal  
20 period, and it's got all the time lines on the second  
21 page of it of when the meetings are going to be for the  
22 TAC.  
23 And we'll be coming back to the Board in July with  
24 WAC rules this time. It's really fast this time. It's  
25 fast because of these two bills. We're required to have

45

1 our rules in place December 31st. So that's as fast as --  
2 I mean, that's as fast as we would do like one of these  
3 interim rules or something.  
4 So that's why we're doing -- we're starting them a  
5 little bit earlier. The whole process is going to be  
6 moving along a little faster this time.  
7 So you're going to be looking at the bulk of them in  
8 July. And hopefully that will be all the rules. If it's  
9 not, then we'll probably have to have a special meeting  
10 like we did this year. But our goal is to have hearings  
11 done toward the end of September so that we can meet all  
12 the time lines that become effective in December for both  
13 bills.  
14 The good news is that most -- there's very little  
15 rules for us actually on these two bills to implement.  
16 But especially the well driller one, it's -- legislatively  
17 it's really complicated. And there were quite a few pages  
18 in that bill. 24 pages I think in that one bill.  
19 But from a rules standpoint, it's pretty simple for  
20 us, which is good. Most of the language is already in the  
21 statute that we need to deal with so we don't have to  
22 duplicate.  
23 I think this is probably a good time to respond to --  
24 you had asked me to respond to -- at the last meeting Mike  
25 Grunwald was complaining about the process for the TAC

46

1 committee. And so I put in your packets last March's  
2 special edition for the TAC committee and the one that we

3 sent out this year in March.

4 And I guess in response to his primary complaint, in  
5 the March 2006 version, if you look in the second bullet  
6 in the last paragraph, this time I underlined it, but what  
7 it says basically is that the Department acts as the  
8 correlating body during the rule-development process and  
9 may at anytime promote rule change as necessary. That was  
10 also in the last year's version, but we didn't underline  
11 it. But I want to be real clear with everybody this year  
12 that the rule process is a Department process. You guys  
13 get to review and recommend. The TAC committee gets to  
14 review and recommend. But if I've got a rule change that  
15 needs to be done, I'm going to work on that up until the  
16 last day. And you will always get the opportunity to  
17 review because you're the Board, and that's why we brought  
18 you back for that special meeting in January, for  
19 instance. Because we had done that between the October  
20 meeting and the January meeting. There were other issues  
21 that came up that we felt like needed to be dealt with in  
22 that rule process, so that's -- you know, that's what we  
23 do.

24 I think these special editions actually really lay  
25 out the guidelines very well. And we try to stick to them

47

1 as closely as possible. You know, if somebody has a  
2 better idea, I would fault myself if I didn't adopt it  
3 midstream sometimes. So if I've got a good reason, then  
4 I'm going to be comfortable making those kinds of  
5 decisions.

6 One thing you'll notice about this year's TAC  
7 committee is that it grew by two people again. And the  
8 reason it did is because the ratio changed slightly with  
9 the licensing types. So we went from 47 people to 49  
10 people this year. It's a little bit different than it was  
11 last year. But the process itself is going to stay about  
12 the same. We'll close the proposals from outside May  
13 15th, and we'll still be working on them after that point  
14 from the Department's side. We'll be going to the TAC  
15 committee on June 7th with the first -- with the May TAC.

16 One of the things that we committed to in legislation  
17 this year with the well driller is that we have a special  
18 meeting with them -- the Department does -- to talk about  
19 the issues that it takes to implement their bill. And so  
20 we're going to be meeting with them on June 8th of -- the  
21 next day after the May TAC. But the focus of that group

22 will just be on what it takes to implement 6225, the bill.  
23 The e-mail address is open. We actually had one  
24 person put theirs in early I found out this morning. So  
25 we have one proposal so far. And that one is to reduce

48

1 the requirements for Internet classes for the examination.  
2 So that's where the rules are right now. With the  
3 CR101 that we filed this time, it's to open up all the  
4 rules again for possible change. So everything is open to  
5 a proposal.  
6 Our intent right now is probably not to raise fees  
7 again. We put that in this -- in 101. But most likely we  
8 won't be raising fees because you can tell from the budget  
9 we're still doing fine. So I want to keep holding the  
10 line on that until we need a fee increase. I believe we  
11 could go another three or four years maybe without a fee  
12 increase where we get down to where the fund doesn't grow  
13 anymore. That's where we want to be is so the fund does  
14 not grow.  
15 Part of the class B thing that we've done and the new  
16 inspectors and the pay raise took a lot of money. Each  
17 one of those items was close to a million dollars a year  
18 of cost. So we saved permit -- we reduced permits, cut  
19 revenue. So in essence that cost -- the inspector's pay  
20 raise was close to a million dollars, and the eight FTE's  
21 are close to a million dollars every year. So they're  
22 balancing that increase in growth that we see.  
23 I mean, really the fees -- the revenue is just going  
24 up because work just continues to go up. And it has  
25 slowed down a little bit, though, this year. Since last

49

1 peak season, it has slowed a little this winter compared  
2 to the previous three or four winters. So that's good  
3 news. Because we would just be back into digging  
4 ourselves into a hole with inspection responses if it  
5 continues to grow at the rate it has the last four years  
6 and the eight inspectors wouldn't let us get our customer  
7 service back up to where we want it to be.  
8 So any questions on the rule process or the TAC or  
9 anything?  
10 We've gotten -- so far we've gotten about I'd say  
11 half of the TAC refilled from applications. There's still  
12 a lot of positions that need to be filled. So anybody  
13 that was on it last year, you know, I encourage them to

14 come back, of course, because they've got the experience.  
15 But about half of the names are on and filled now.  
16 BOARD MEMBER PREZEAU: Ron, so if you apply for one  
17 TAC committee, so last year's TAC committee, they don't --  
18 it's a one-time thing? Everybody has to reapply?  
19 SECRETARY FULLER: Yes. I ask that they reapply  
20 because some people lose interest. And, you know,  
21 ultimately what I will do and probably is going to happen  
22 in the next two weeks is that if I don't fill the  
23 positions, I'm going to send them all an e-mail saying,  
24 "Do you want to be back?" And sometimes that  
25 encouragement just fills it right up. That's what

50

1 happened last year is I wound up with about a third of the  
2 positions left, and I just had to send out a giant e-mail  
3 that says, "Will you please come back." And most of them  
4 did.  
5 But we had -- I think we only had two positions last  
6 year that weren't filled. That's good.  
7 For the testing labs, we approved two new testing  
8 labs last quarter. We rejected one, and we thought they  
9 were going to appeal actually, but they decided not to  
10 appeal our decision. And they will be coming back in the  
11 coming year I think to reapply again.  
12 They had a conflict in our opinion with ownership.  
13 It was a subsidiary company of Tyco (phonetic). And Tyco  
14 makes -- owns a lot of companies that make electrical  
15 products. So we felt that was a conflict. And ultimately  
16 they decided to agree with us, so they pulled their appeal  
17 off of our list.  
18 Performance measures. We've got the Scorecard  
19 numbers here from January to March. As you can see, we  
20 wrote 613 citations during that quarter for the targeted  
21 issues of no license, no electrician certificate and  
22 failure to buy permit. So quite a few people still do  
23 those kinds of things, and we try to capture them as best  
24 we can. That accounted for 48 percent of all the  
25 citations that were written.

51

1 Statewide we were up to 87 percent of responses to  
2 inspection requests within 24 hours. So that's what I'm  
3 saying; that was 83 percent I think at the last Board  
4 meeting. And that's totally I believe because of the  
5 class B usage. It's enabled us to have that extra half an

6 hour to 45 minutes every day not dedicated to those  
7 inspections where we find no problem.  
8 Number of stops per day is at ten and a half for the  
9 quarter, which is pretty typical for this time of year.  
10 The number of electrical disconnect corrections for  
11 the quarter was 8,440. So every month it runs about that  
12 many. Those are the kinds of corrections, again, that for  
13 that one correction we would shut the power off. That's a  
14 lot of corrections of that type. So that's part of what  
15 I'm still in a quandary over. And I'm going to have to  
16 the data off of this Correction Writer program to decide  
17 whether these are the people that we're going to look at  
18 are people that in general just get a lot of corrections.  
19 I've still got some debate in my own mind about whether I  
20 should target the people that get the worst corrections or  
21 the people that get the most corrections. From a manager  
22 point of view, I want to target the ones that get the most  
23 because that saves me more time. But from a safety point  
24 of view, I probably should be after these people. And so  
25 it may be some blend there too; I'm not sure yet.

52

1 Through March we had only had one vehicle accident,  
2 and we've driven 449,000 miles that quarter. The bad news  
3 is that there's been three wrecks since March this month,  
4 two of them in the same region. So they're all going to  
5 driver's ed school this month.

6 CHAIRPERSON ASHFORD: What region is that?

7 SECRETARY FULLER: That came out of region 3.

8 The really bad news was that one was a slick road and  
9 the inspector hit a tree. And the really bad news was  
10 that they sent the lead out to do the pictures and  
11 investigate the accident, and he ran into a deer. So what  
12 can you say sometimes, you know. You just never know.

13 Vehicle accidents are a big deal with us. You know,  
14 we're averaging so far -- and these accidents this month  
15 are really going to hurt our average. But we were running  
16 close to a half a million miles with only one accident --  
17 at-fault accident, which is really a pretty good number I  
18 think. I think that's a pretty good number. These  
19 accidents are probably going to knock us down to 250,000  
20 miles or so per accident.

21 BOARD MEMBER SIMMONS: Ron?

22 SECRETARY FULLER: Yeah.

23 BOARD MEMBER SIMMONS: A quick question. On the  
24 targeted citations, the Director at our Board meeting that

25 we had out at the fairgrounds at Thurston County pointed

53

1 out that his goal would be to have a more friendly  
2 relationship I believe with the contractors especially.  
3 Are your -- as mandates come down from your office to give  
4 people more warnings if it's not a serious violation, to  
5 do more of those things, or are they still just writing  
6 citations?

7 SECRETARY FULLER: We have -- and that's a good  
8 question. We've actually given the inspectors written  
9 guidelines now on how they're to handle most compliance.  
10 And you can't ever take every situation into account. But  
11 we are telling them to write more warnings. And the  
12 Scorecard for this next fiscal year will reflect that  
13 because it's going to shift from just citations to  
14 citations and warnings both. So they get equal credit, in  
15 their eyes at least. Because we don't have quotas or  
16 those kinds of things really.

17 A good example is the no permit. Even though that's  
18 a targeted issue, we're asking them right now to write a  
19 written warning the first offense for permits unless  
20 there's extenuating circumstances.

21 A good example of that was a couple weeks ago, one of  
22 our fraud team guys, the CORE person, was over in the  
23 Yakima area, and he carded the electrician for his  
24 certificate. And he had that. And he said, "Could I see  
25 your permit?"

54

1 And so he went over to his clipboard, thumbed through  
2 his clipboard like he was looking for something and said,  
3 "I don't have a permit. I'll have to call the shop on  
4 that." So he flipped his Nextel radio phone open, called  
5 the shop up, the owner answered the phone, and said,  
6 "Boss, where's our permit for this job?"

7 "Oh, hell, we're not getting a permit for there.  
8 You'll never get caught." That was the quote.

9 "Well, he's standing right here beside me."

10 "Well, I guess we'll have to get one of those class B  
11 things over there then."

12 So that fellow got a citation, and he also got a  
13 double penalty for willful because it was clear what was  
14 in his mind. He didn't get a warning. So there's  
15 exceptions. Always there's an exception. I hope he  
16 appeals just to have him say that in court.



17 BOARD MEMBER SIMMONS: He's probably going to do some  
18 extended training for his employees not to use speaker  
19 phone.

20 SECRETARY FULLER: There is a -- there is a grace  
21 period on right now with the pump installers for the (03)s  
22 and (3A)s. That was part of the bill actually was that  
23 they have a grace period until January 1st for any  
24 citations for licensing issues or certifications. They  
25 get written warnings and they have 30 days to come in.

55

1 And if they don't come in, then they get citations from  
2 then on out.

3 We are doing things to try to shift the entire  
4 mentality a little bit to be a little more friendly  
5 up-front. And so written warnings, if we can get  
6 compliance, that's good. That's the goal is to get  
7 compliance. It's a headache for everybody to have to pay  
8 some of these big bills. But again, that doesn't stop the  
9 people that really get the most of them. Most people that  
10 get citations get multiples. And they get them for a  
11 reason, and that's because they are multiple offenders.

12 BOARD MEMBER (D.A.) BOWMAN: Ron, moving back to the  
13 electrical disconnect corrections, and it may be that you  
14 haven't looked at this, and you won't until you get  
15 Correction Writer up and running, but have you done  
16 anything to look at what types of corrections are -- or  
17 done any kind of analysis on that to this point to see  
18 what might be done to improve that? I mean, that seems to  
19 me like something that should be targeted because that is  
20 a public safety issue.

21 SECRETARY FULLER: We have, but it's -- we have to  
22 manually count everything now. And that's what Correction  
23 Writer -- it's going to be a revelation from an outreach  
24 perspective and a targeting perspective for us. Because  
25 we're going to be able to go in and really find out what

56

1 we're doing. And right now most inspectors still  
2 handwrite their corrections, and they make a copy and  
3 bring it back and put it into a file. So to get that  
4 8,000 number, the supervisor every month has to go through  
5 every correction that's written and count and pick out the  
6 right code numbers that -- their mandate is to count it if  
7 you would turn the power off -- if you would ask Ron to  
8 turn the power off. So that number may actually radically

9 change. It may go up or down -- I'm not sure -- when we  
10 have Correction Writer. Because every correction that  
11 we've got in our system has a severity level attached to  
12 it from 1 to 9. And so -- I can't remember which end is  
13 what. But 1 is most hazardous. So those are the things  
14 that we'll be reporting back on to people later. 10 I  
15 know is a handwritten. It's not on our list of packaged  
16 corrections to choose from. So we'll be using those  
17 handwritten ones to ultimately expand our list and put the  
18 hazard rating on them and do those kinds of things. So  
19 I'll actually be able to tell if it was the worst one or  
20 if it was in the middle kind of a correction, or if it was  
21 something that well, maybe we shouldn't have even written  
22 that one unless there was something to go with it. There  
23 will be a lot of flexibility with this program when we get  
24 it into operation I think. But right now it would be  
25 very, very difficult to do what we're trying to do with

57

1 that computer program.  
2 Okay. Electrical licensing. The staff has about a  
3 one-week backlog. That's actually true and false.  
4 Contractor renewals are about a week. But the electrician  
5 renewals are two or three days normally for us. They're  
6 actually going to be on the program Scorecard I hope next  
7 year for a performance measure. And it's going to be an  
8 overall licensing turnaround again. And right now we're  
9 thinking about a three-day turnaround as being the target  
10 for all types of licenses. So that's probably going to  
11 happen.  
12 We're also going to -- we're proposing a performance  
13 measurement for the plan review group also to track how  
14 many sheets per month each of those plan review inspectors  
15 reviews. That's one's a very difficult one because you  
16 get really big jobs that have 50 or 100 sheets of plans on  
17 them, and then you get some that have one. So you can't  
18 really track backlog by the plan because one with 50 pages  
19 takes weeks and you just can't get them out. But we can  
20 track the productivity of the work group by how many  
21 sheets they process because that's pretty consistent.  
22 Over the years we've seen a sheet is a sheet, whether it's  
23 a one-line or whether it's a lighting plan; it takes about  
24 the same amount of time to get a sheet out.  
25 Oh, we do have Tracy' report. Good.

58

1 The class B permits, like I said, are really being  
2 used a lot. It's increased about 36 percent just in March  
3 -- the usage. We inspected 22 percent of them. 100  
4 percent of all the line voltage work we're still looking  
5 at. The guidelines right now for class B's is -- again,  
6 it's the same as it was before.

7 I have an auditor looking at every label that's  
8 returned to us, every single one of them. First of all,  
9 he looks at it to see if it's filled out right. If it's  
10 not, that person gets a warning. If it's used for the  
11 wrong thing, he makes contact with them and tells them,  
12 like Jim, "Go buy a regular permit for that job."

13 Then we pick out all the line voltage issues -- or  
14 labels. We're picking out all the ones that we can  
15 identify that are institutions and schools. For the low  
16 voltage/telecom type issues, we're inspecting all of  
17 those. We're inspecting -- the next group that we're  
18 targeting is the security systems. And the last ones are  
19 the thermostats because we very rarely find something with  
20 thermostats.

21 So we're again trying to keep at that 25 percent  
22 level because that keeps our revenue and our cost about  
23 equal with where they are with real permits. Most of  
24 these permits are a \$40 or a \$50 permit if you went and  
25 bought the permit. So if we inspect one out of four, our

59

1 revenue and our expenses are about balanced.

2 As you can see there, 7,000 of them used January and  
3 March, and we inspected 783, and wrote 11 corrections. So  
4 I was pretty good on my guess earlier. About 11  
5 corrections is all we wrote. 11 different job sites. So  
6 that's not very many corrections.

7 You know, we hear -- the one big complaint -- the  
8 biggest complaint that we actually hear from people are  
9 the people that are using class B's that don't get these  
10 corrections, and they say, "Well, why don't you just make  
11 it permit exempt because you're not writing any  
12 corrections anyway."

13 Well, that's true. But these jobs we still feel we  
14 want to look at at least once.

15 A thermostat's a prime example. A thermostat -- we  
16 get one chance at that house, and whatever they do later,  
17 they're going to do as a homeowner. But this gives us at  
18 least one chance to verify if we want to if that  
19 installation's correct, if that furnace was changed

20 properly, or if the circuit was added correctly, it gives  
21 us that one look if we want to look. And I think it kind  
22 of keeps everybody honest.  
23 I firmly believe that if we didn't do the randoms and  
24 we started inspecting these jobs next year, we would find  
25 a lot more corrections because people wouldn't be held

60

1 accountable. I think this still holds some accountability  
2 there that's really cheap, and it's \$10.  
3 Ultimately I think when we go back and look, that we  
4 will actually be getting more labels than we did permits  
5 in the past. Because now it's a really bad business  
6 decision if -- before, a contractor could seriously think,  
7 "Do I want to spend the \$60 for this permit for this added  
8 plug in the bedroom or not? And I only have to get away  
9 with that four and a half times to equal my citation  
10 penalty." And there were a lot of people that made those  
11 kind of decisions. Now they got to get away with it 25  
12 times. So it changes their perspective if they realize  
13 that that change is there. So I think the class B's are a  
14 good thing.  
15 BOARD MEMBER GOUGH: Ron, could I make a comment  
16 here?  
17 SECRETARY FULLER: Uh-huh.  
18 BOARD MEMBER GOUGH: Regarding the class B's, I think  
19 it's great that the inspectors are getting out there and  
20 inspecting that low-voltage wiring and finding that most  
21 of it is fine.  
22 As far as doing the line voltage inspection within  
23 the cabinet of the air conditioning equipment, obviously  
24 that equipment is ETL listed, UL listed. We've had  
25 experience where we've been asked to modify the wiring

61

1 within the unit by the inspector on an ETL piece of  
2 equipment.  
3 Has the Department spent any time really evaluating,  
4 you know, how the internals of an air conditioning unit  
5 are wired and how that reflects against the NEC and the  
6 WAC rules, and that when the inspectors are going to be  
7 doing line voltage inspections within the cabinet of air  
8 conditioning equipment, are they properly trained? Do  
9 they have a clear understanding of how the rules are to be  
10 applied? And also, as an HVAC contractor myself, do the  
11 contractors have a clear understanding of what the

12 inspectors are going to be looking for and looking at?  
13 I've got pictures here of a correction notice that we  
14 received where we were required to modify the wiring  
15 within a unit. And we went ahead and did so just to be in  
16 compliance, but I think that once the inspectors start  
17 inspecting line voltage wiring within units, things that  
18 are done under the class B, there may be some work or  
19 training that needs to occur on both sides to make sure  
20 that it's being done appropriately.  
21 SECRETARY FULLER: And I don't disagree with that.  
22 Just for the Board's information, the one that Dave's  
23 talking about here is an HVAC unit where there was a large  
24 motor replaced. And when the motor was replaced, we get  
25 the inspection to come -- or request to go inspect it.

62

1 And it didn't meet the National Electrical Code. Once --  
2 and this is probably something that we -- or it's probably  
3 worthy of a Currents article and some training probably,  
4 especially the HVAC industry -- is that once work's been  
5 done in one of these pieces of equipment and an inspection  
6 is requested and required, then things have to meet the  
7 NEC, in addition to meeting the listing requirements. And  
8 in this case, the NEC had higher standards than the  
9 standards did. It was things like -- it was basically a  
10 480 volt 277 volt system that had -- the original  
11 installation appeared to have, but we're not sure, no  
12 bonding. If you all know the code, on 250 and low volt  
13 ground, you can't use reducing bushings; you can't use  
14 concentric knockouts, those kinds of things. And that's  
15 what we ran into on this job. And we obviously didn't see  
16 the original motor to know how it was installed, but the  
17 NEC version was clear that you have to not use those kinds  
18 of methods; you have to use bonding bushings and if  
19 necessary external bonding jumpers and those kinds of  
20 things. So I think there was confusion on the installer's  
21 point there that he didn't understand that once he tweaks  
22 that equipment that it has to meet the NEC, and not just  
23 put it back like it was. Because that doesn't necessarily  
24 meet current code. So we don't require people to go back  
25 and change something that's old or existing like in an old

63

1 house where they have -- it used to be code legal, but  
2 isn't now. We don't require that they change that until  
3 they touch it. Once they touch it, then things have to

4 come up to speed.

5     So I think it's partly an outreach effort and partly  
6 just training for staff I think to resolve those kinds of  
7 issues, Dave.

8     But we don't -- we shouldn't -- I don't say we don't  
9 ever. We should never tell anybody when we inspect a  
10 piece of equipment that has a legitimate label on it to  
11 change anything inside that equipment. Because then we  
12 would be violating the label ourselves. So if it's a new  
13 piece of equipment being installed and it's labeled, we're  
14 not going to tell anybody to change anything inside of it.  
15 But if it's not labeled, then we have other issues. Or if  
16 there's a retrofit going on.

17     It gets complicated, but life is complicated for us  
18 all the time.

19     BOARD MEMBER GOUGH: I think in some ways the  
20 application of class B, especially being that the WAC's  
21 changed to a certain extent regarding wiring within the  
22 air conditioning equipment, that there is some training  
23 that needs to be done there. When I look at the fact that  
24 there's \$11 million in the budget, some of those dollars  
25 need to be spent on training for the contractors. And the

64

1 more training that's provided and made available, the  
2 clearer understanding that the contractors will have and  
3 they'll be in turn able to pass that information onto  
4 their employees to help them do a better job. So anything  
5 that can be done in that regard would be very helpful.  
6 Thank you.

7     SECRETARY FULLER: Okay. Plan review. The workload  
8 remains pretty steady. They are picking up just a little  
9 bit right now for schools that are coming in. They're  
10 still less than a month of getting every set of plans out  
11 right now. So if they can keep to that, they'll be doing  
12 well. Usually they have to start doing some overtime  
13 about now, though. But so far I haven't heard that  
14 request, so I won't ask them.

15

16     Item 6. Certification Quarterly Report  
17         & Examination Development

18

19     SECRETARY FULLER: Electrical exams. The new ones  
20 are now in place. As of April 1st, all the new 2005  
21 versions are out there and being used. The new  
22 electricians exams, which are the split exams that we

23 talked about where the NEC and the theory are separate  
24 from the RCW and WACS, are on-line now. A few people  
25 didn't read the instructions on the Web and on their

65

1 pretest instructions and things, so they were a little  
2 surprised when they walked in the first day or two and had  
3 what looked like two exams in front of them. In reality,  
4 it was the same thing; it was just two pieces.

5 But so far, so good. No complaints on the new exams.

6 I think some people actually appreciate the  
7 opportunity to have the RCW's and the WAC's separate  
8 because it gives them that chance to pass one of those  
9 parts and not have to retake that piece again later if  
10 they fail the other parts.

11 BOARD MEMBER PREZEAU: I just wanted to follow up on  
12 that same meeting where we were at the fairgrounds or  
13 wherever where we initially talked about this, you said  
14 that potentially doing this and separating the RCW and  
15 WAC's would give us an opportunity to share the exam that  
16 we use or help offer it to other states. Alaska I think  
17 was one of them. I'm just curious if anything has  
18 transpired on that front.

19 SECRETARY FULLER: We're actually -- right now  
20 Montana and Wyoming are both -- and some of the -- a  
21 couple of the -- one or two of the cities in Montana  
22 actually have even tapped in for like the HVAC. But  
23 they're using our questions right now. Alaska is looking  
24 at them right now. Since we finished they've started  
25 reviewing it. I believe that they're going to probably

66

1 use our questions too.

2 We go to the reciprocal states meeting in August --  
3 the first week of August always. So that's going to be  
4 part of our agenda is to explain what we've done and why  
5 and try to get some of the other states to come on board  
6 with that too. Because the more states we have using our  
7 exams, the more validity we have. The more validity that  
8 they have too. I think primarily it's going to come from  
9 the smaller states that do less licensing. But that's  
10 okay. I mean, it would really help them a lot. Because  
11 doing exams is a monumental task. It takes months of man  
12 time to get one of these sets of exams out.

13 Because of this split with the electricians exams  
14 like administrators and masters have, we're upwards of

15 over a hundred different exams now that we do. So there's  
16 a lot of versions out there.

17 BOARD MEMBER PREZEAU: How many states are we  
18 reciprocal with?

19 SECRETARY FULLER: I have to count them now. We lost  
20 Idaho. So we're not reciprocal with Idaho and Oregon  
21 anymore. Both of theirs boards said, "apprenticeship  
22 only, end of story," and they're not negotiable to trying  
23 to balance that with different exam scores or anything  
24 else. As far as I know, both of them are demanding that  
25 if a Washington electrician goes there, or an (01), for

67

1 instance, that they show 16,000 hours worth of experience  
2 before they qualify to test. A very bad situation in my  
3 opinion that they both went that way. But that's what  
4 they decided to do, so that's where they're at.

5 So right now, we're reciprocal with Alaska, Montana,  
6 Wyoming, North and South Dakota, Minnesota, Colorado,  
7 Oklahoma, Arkansas, Massachusetts, Vermont, and I think  
8 New Mexico. It's a lot.

9 When you look -- actually we have a map over in  
10 Doug's office -- Doug Ericson's office. And it's almost a  
11 third of the geographic U.S. right now. It's not that  
12 much in population because you've got states like New York  
13 and California that have no licensing whatsoever, except  
14 at the city levels; they have all the city licensing  
15 stuff.

16 That's the scenario that Texas used to be in where if  
17 you lived around Houston, you had about 30 different  
18 licenses to do all the little towns around Houston. Texas  
19 is probably going to join the reciprocal group I believe  
20 within the next two years because they do have licensing  
21 now in Texas on a statewide basis, and it's pretty similar  
22 to what all the reciprocal states require. They attended  
23 our last meetings -- the last two meetings actually -- and  
24 they're very interested in joining the group. Texas has  
25 over 100,000 electricians already in their system. So

68

1 that's not counting all the contractors. So it's a lot of  
2 people in that state.

3 BOARD MEMBER PREZEAU: So do you think when  
4 California finally overcomes the challenges of licensing  
5 in that state that we will become reciprocal with them as  
6 well?



7 SECRETARY FULLER: Possibly. I mean, you have to --  
8 the reciprocal group is very cautious about who they  
9 accept. So typically -- like Texas, for instance. Texas  
10 on paper looks like they would qualify now. But everybody  
11 is very cautious about are they really holding up their  
12 requirements? are they really testing people? or is it  
13 really just a good ol' boy handshake and nod and you get  
14 your license? and those kinds of things. So it would be a  
15 while. Even in California, they were supposed to have  
16 been done two years ago, three years ago now. They're  
17 still working on trying to get their system in place. So  
18 it will probably take them two or three years once they do  
19 implement to actually be able to join a group like ours.  
20 BOARD MEMBER PREZEAU: So when we lost Idaho and  
21 Oregon, did they leave all -- they severed their  
22 reciprocal relationship with all these other states as  
23 well and sort of went off on their own?  
24 SECRETARY FULLER: They went off on their own.  
25 They're trying to -- some of the other states also have

69

1 apprenticeship requirements, but they also accept what we  
2 do with trainees. And they're willing to do that because  
3 they know what our system looks like and how we work. But  
4 Oregon and Idaho weren't. And they're trying to get  
5 one-on-one agreements with some of those other states. I  
6 don't agree with that because I don't believe that we will  
7 ever do away with our training method here. It just would  
8 be too costly to contractors I think to require  
9 apprenticeship for everybody compared to what we do today.  
10 So I don't know how successful they will be in that.  
11 CHAIRPERSON ASHFORD: Ron, as long as we're talking  
12 about testing, currently an applicant has to achieve a 70  
13 percent score to pass.  
14 SECRETARY FULLER: Correct.  
15 CHAIRPERSON ASHFORD: I personally believe that's  
16 low. Has there been any discussion in the past or what  
17 could we do to up the bar?  
18 SECRETARY FULLER: Well, that's actually I believe --  
19 I have to go back and read for sure, but I think that's  
20 the Board's prerogative. I believe that you actually own  
21 the exams.  
22 Many of the reciprocal states require a 75 percent  
23 score to reciprocate. So that's a real eye opener for  
24 some people that make 71 in Washington; they can't  
25 reciprocate if they didn't make 75. Because most of them

1 actually require 75 to reciprocate. That's always an  
2 option for the Board to do that. I think that that's one  
3 of those things where you'd want to stakeholder that for  
4 about a year. Otherwise, you'd have a lot of people up in  
5 arms.

6 CHAIRPERSON ASHFORD: Could you clarify that for us?  
7 Because I wouldn't mind seeing something in place to move  
8 us forward. After sitting on the JATC for ten years, I  
9 really felt that a 70 percent score was a little low. And  
10 as a contractor it's low.

11 SECRETARY FULLER: What I think I'll do is research  
12 it and -- I think I saw enough nods around the Board just  
13 then to say that it would be a good WAC rule proposal.  
14 And we'll see where it goes through the TAC process and  
15 when it gets to you again and see what happens. Because  
16 that would give us plenty of time, if it happened, to be  
17 able to do the outreach necessary to let people know that  
18 things were changing. I think there has to be a time, you  
19 know, an out-front date that that has to happen at. It  
20 can't happen December 31st probably. People that are in  
21 their one-year cycle, for instance, right now would need  
22 to be at the same requirement level they are now.

23 BOARD MEMBER SIMMONS: Ron, another quick question on  
24 that then. Would the 75 percent requirement, just as a  
25 question, require or allow the reciprocal states to be

1 more comfortable with our reciprocal agreement? And would  
2 that possibly affect Oregon and Idaho, or are they just  
3 set on the apprenticeship, and that is the only thing they  
4 are stuck on?

5 SECRETARY FULLER: I think it would make the other  
6 states much more comfortable. We've had those discussions  
7 at the reciprocal meetings.

8 Oregon -- I haven't talked to Idaho about it. But  
9 Oregon I actually tried to get them to agree that they  
10 would accept our people that made 80 percent and above,  
11 and they said, "No way. Go away." And I thought that was  
12 a huge concession on our part. And they wanted no part of  
13 it. So they're adamant in Oregon about the  
14 apprenticeship.

15 BOARD MEMBER (D.A.) BOWMAN: Ron, just out of a kind  
16 of courtesy to everybody on the Board, if this does go on  
17 in the TAC process, could you provide us some statistics

18 as to what percentage of those that pass pass in groups  
19 like 70 to 75, 75 to 80, 80 to 85?  
20 SECRETARY FULLER: Sure.  
21 BOARD MEMBER (D.A.) BOWMAN: If it's a small  
22 percentage, it may not have much of an impact. If it's a  
23 large percentage, it may be something we really want to  
24 look at and say why are we doing this.  
25 SECRETARY FULLER: And I will have that before the

72

1 TAC meets actually. Because this kind of thing you have  
2 to have significant substantiation for. I'll have those  
3 kind of numbers for them at the TAC meeting, and  
4 subsequently you'll have them here too.  
5 CHAIRPERSON ASHFORD: Before you go on to the WAC's  
6 and the RCW's, Milton, would you like to change paper and  
7 rest your fingers?  
8 THE REPORTER: Yes, please.  
9 CHAIRPERSON ASHFORD: Ten minutes?  
10 THE REPORTER: Sure.  
11 CHAIRPERSON ASHFORD: We'll take a ten-minute break.  
12 We'll reconvene at -- in ten minutes.  
13 (Recess taken.)  
14 CHAIRPERSON ASHFORD: Our meeting will resume.  
15  
16 Item 4. RCW/WAC Update (Continued)  
17  
18 CHAIRPERSON ASHFORD: Ron, RCW's and WAC's.  
19 SECRETARY FULLER: I think we've already talked about  
20 items 3, 4, 5 and 6 now, unless somebody has questions  
21 over anything. I think I'm actually done, Madam Chair.  
22 CHAIRPERSON ASHFORD: Well, I didn't check off the  
23 RCW's and WAC's.  
24 But as long as we're there, Fred would like to make  
25 some comments about the report you submitted.

73

1 BOARD MEMBER TRICARICO: Yes, just very briefly.  
2 Thank you, Madam Chair.  
3 On the report that I had e-mailed around, just a  
4 couple items I just wanted to highlight.  
5 One is stiff guidance. We talked with the FCC  
6 because we were concerned about what authority we had to  
7 write rules for the carriers that were regulated by the  
8 FCC. But the FCC got back to us with a rule that they  
9 have that says, "All building and electrical codes

10 applicable in the jurisdiction to telephone wiring shall  
11 be complied with." So that gives us basically carte  
12 blanche to write the rules that we think are necessary for  
13 the installations of telecommunications.

14 And then secondly, we listed a pretty good list of  
15 proposed WAC changes. What we'll do on those is we'll  
16 refine those over the next few weeks and get them to the  
17 Chief to review hopefully in the middle of June so that  
18 whatever items he addresses in there we can get finished  
19 before the July 1st date he'd like to have the final  
20 language.

21 And then lastly, besides the WAC rule changes, our  
22 discussions have led us to believe that what's going to be  
23 important to make this happen effectively will be some  
24 outreach, outreach to the carriers themselves, to some of  
25 the points made earlier that all these companies have

74

1 administrators that are obligated to know the rules. That  
2 doesn't necessarily mean that they may be up to speed on  
3 them. So we want to be sure that the rules are  
4 communicated to all these carriers?

5 And in addition, we want to be sure that the other  
6 jurisdictions besides the inspectors for L & I are up to  
7 speed so we have some consistency throughout the state as  
8 to there's a level playing field then for all contractors.

9 And also we'd like to see we believe what would be  
10 necessary will be some -- possibly some compliance at the  
11 end of this process to what we may not have accomplished  
12 by writing rules or doing outreach. We may need to have  
13 some compliance work done like we've done in other areas  
14 that would then bring it to the attention of the offenders  
15 out there. For whatever the reason they're not getting  
16 the -- or performing their work up to code.

17 Basically that's it. So we'll be working over the  
18 next month or so to get that stuff over to Ron.

19 Does anybody have any questions?

20 BOARD MEMBER PARKER: When I kind of look through  
21 that report, it appears to me that it was kind of looking  
22 for multiple demarc facilities or points in a building.  
23 And I kind of looked at that and made I guess more of a  
24 crude analogy back to the electrical utility distribution  
25 of almost saying that the electric utility would like to

75

1 come in and set a service panel on a ten-story high-rise,

2 a panel, you know, ground floor, 2, 4, 6 and 8, and call  
3 that, quote/unquote, a demarc point. Does that not take  
4 the flexibility away and the inspection ability of the  
5 Department away from all the truck lines? Because from  
6 the demarc, my understanding is that belongs to the  
7 utility. And I just see kind of a parallel between  
8 putting -- having a electrical utility put service points  
9 on different floors and doing the same by making multiple  
10 demarc instead of just one demarc in the building. Am I  
11 out of -- am I not thinking correctly?

12 BOARD MEMBER TRICARICO: Well, actually what the  
13 problem is is the FCC has rules that allows both carriers  
14 and buildings owners to make determinations of where  
15 demarcs will be located. And I'm sure we have no  
16 authority to change any of that. That would take actual  
17 FCC rule changes to change where demarcs are located  
18 within buildings.

19 That's -- the real nature of the complexity of this  
20 is it's kind of how to find a demarc. So I don't think  
21 there's much we can do about the existing rules at the  
22 FCC. I think we just have to be concerned about  
23 education, both of carriers and inspectors, to be sure  
24 that the rules we have are complied with.

25 And I think Jim's point when we first discussed this

76

1 last time is if some of these WAC rules can be changed or  
2 are changed to enforce that the demarcs are labeled, that  
3 would give a great advantage to our inspectors when  
4 they're out there to know at least what part would be  
5 under our rules.

6 BOARD MEMBER PARKER: I guess one more -- as it  
7 stands now -- and I'm not an (06) or an (09) which most of  
8 this would fall under -- are there multiple demarcs  
9 allowed now? I thought there was one allowed in a  
10 building, and we're looking at making more than one?

11 BOARD MEMBER TRICARICO: No. Actually today multiple  
12 demarcs are allowable in many, many buildings by the  
13 options of the buildings that we've chosen.

14 Like we discussed -- when we looked at the Verizon  
15 example, they have only one demarc in the Verizon  
16 footprint in buildings. But in the other -- CenturyTel,  
17 Qwest, the rest -- they have the option of having multiple  
18 demarcs within a building. So that's the part that's  
19 regulated by the FCC that we're -- we are bound to.

20 BOARD MEMBER PARKER: Thank you.

21 BOARD MEMBER TRICARICO: Thank you, Madam Chair.

22 CHAIRPERSON ASHFORD: Thank you, Fred.

23

24 Old Business

25

77

1 Before we go into item number 7, presentation of  
2 final orders, apparently we do have some old business.

3 Philip.

4 BOARD MEMBER PARKER: Thank you, Madam Chair.

5 The last meeting I believe I tabled some public -- or  
6 moved to table some public testimony. And I believe it  
7 was tabled to time certain, which was this meeting. And  
8 at this point my understanding is that that table dies and  
9 that testimony unless the Board takes other action would  
10 be allowed from this point forward; is that correct?

11 CHAIRPERSON ASHFORD: Jean, can you address that?

12 ASSISTANT ATTORNEY GENERAL MEYN: Do you have your  
13 copy of Roberts Rules of Order with you?

14 CHAIRPERSON ASHFORD: Not the full copy.

15 ASSISTANT ATTORNEY GENERAL MEYN: But that sounds  
16 familiar. I don't know what the nature of the motion was  
17 or --

18 BOARD MEMBER PARKER: It was just to table testimony  
19 from -- public testimony, and I moved that it be tabled  
20 until this meeting. And I would assume at this point that  
21 that table would expire.

22 ASSISTANT ATTORNEY GENERAL MEYN: And that was  
23 relating to what --

24 BOARD MEMBER PARKER: It was Mike Grunwald's  
25 testimony that we chose not to listen to at that point.

78

1 CHAIRPERSON ASHFORD: The Sound Transit --

2 BOARD MEMBER PARKER: The Sound Transit --

3 ASSISTANT ATTORNEY GENERAL MEYN: Oh. Oh, I see.  
4 Okay.

5 CHAIRPERSON ASHFORD: The Sound Transit issue will be  
6 on the agenda for our July meeting. Donna has sent every  
7 Board member an e-mail regarding some background that she  
8 did. If you have any questions regarding what she has  
9 sent you in this e-mail, please feel free to e-mail her  
10 directly as to questions, and then this will all be  
11 brought up in July.

12 ASSISTANT ATTORNEY GENERAL MEYN: And Donna will be

13 back in the country -- she's in Bolivia -- on May 8th.  
14 BOARD MEMBER PREZEAU: Madam Chair, I think if I  
15 could just make a point of clarification that the -- just  
16 reviewing the approved minutes, the motion that was made  
17 actually addresses comments Mike Grunwald made about the  
18 TAC committee process and not the Sound Transit issue. I  
19 just wanted to make that clear. And I think Ron actually  
20 addressed that issue in part of the secretary's report.  
21 So I think -- unless I'm out of order, I don't think --  
22 oh, the motion was just to table the issue. I think we  
23 addressed the issue without pulling it off the table, and  
24 we were actually -- but I think the question ultimately --  
25 the issue was ultimately addressed. At least that's my

79

1 sense.  
2 BOARD MEMBER GUILLOT: The issue that Mike was  
3 talking about was the TAC.  
4 BOARD MEMBER PREZEAU: Correct.  
5 BOARD MEMBER GUILLOT: Is that what you're talking  
6 about --  
7 BOARD MEMBER PREZEAU: That's what I'm saying.  
8 BOARD MEMBER GUILLOT: -- that was addressed?  
9 BOARD MEMBER PREZEAU: Yeah.  
10 CHAIRPERSON ASHFORD: Philip, is this --  
11 BOARD MEMBER PARKER: Yes, it did pertain to  
12 Mr. Grunwald's testimony. And when I was refreshed, it  
13 was the TAC rules. And I still think that my motion to  
14 table expired.  
15 CHAIRPERSON ASHFORD: Any further comments on that  
16 issue?  
17 BOARD MEMBER (D.A.) BOWMAN: I'm reading -- I'm  
18 looking at page 83 of the minutes from last week's meeting  
19 -- the motion was that the Board after receiving advice  
20 from counsel not hear the presentation from the IBEW 46 at  
21 this time. It doesn't say it's tabled to this date; it  
22 just says not to hear it at that time.  
23 BOARD MEMBER SIMMONS: That was a different issue.  
24 BOARD MEMBER (D.A.) BOWMAN: We're not talking about  
25 that one?

80

1 BOARD MEMBER PARKER: I think we're talking about  
2 page 148 -- or 47/48. And I believe it was the technical.  
3 BOARD MEMBER PREZEAU: The actual motion itself is on  
4 page 148.

5 BOARD MEMBER TRICARICO: Madam Chair?  
6 CHAIRPERSON ASHFORD: Yes.  
7 BOARD MEMBER TRICARICO: Since the issue was tabled  
8 and the issue has been addressed at this meeting, I mean,  
9 I think if everybody's satisfied with the fact that the  
10 issue's been dealt with that wasn't dealt with at the  
11 previous meeting, we can just let that tabled motion die  
12 and we don't have to take any further action on it as far  
13 as I'm concerned.  
14 ASSISTANT ATTORNEY GENERAL MEYN: I don't see any  
15 problem with that procedure.  
16 BOARD MEMBER GUILLOT: You're talking -- for my  
17 clarification, you're talking about the TAC issue,  
18 correct?  
19 BOARD MEMBER TRICARICO: The TAC issue specifically,  
20 which was the issue that was tabled at the previous  
21 meeting and that was addressed today by Ron.  
22 CHAIRPERSON ASHFORD: If Philip's happy?  
23 BOARD MEMBER PARKER: (Gesturing with thumbs up.)  
24 CHAIRPERSON ASHFORD: Philip's happy.  
25 ///

81

1 Okay, any further comments on that before we move  
2 On? Good.  
3  
4 Item 7. Presentation of Final Orders  
5  
6 CHAIRPERSON ASHFORD: Presentation of final orders.  
7 ASSISTANT ATTORNEY GENERAL MCGILL: Madam Chair, I'm  
8 Jason McGill with the Attorney General's office presenting  
9 one final order on Verizon Electric, Michael Segaline, and  
10 John Scott Segaline matter. That was heard on the January  
11 26th Board meeting, and we have the final order for  
12 presentation for your signature today.  
13 CHAIRPERSON ASHFORD: I ask you if this proposed  
14 order has been delivered to Verizon through their  
15 attorney, Michael Zanol?  
16 ASSISTANT ATTORNEY GENERAL MCGILL: It has.  
17 I have that for your signature, if that's acceptable  
18 at this time.  
19 CHAIRPERSON ASHFORD: (Nodding affirmatively.)  
20 ASSISTANT ATTORNEY GENERAL MCGILL: Thank you.  
21 ASSISTANT ATTORNEY GENERAL MEYN: Might I also  
22 inquire was he aware that the order was going to be  
23 presented today?



24 ASSISTANT ATTORNEY GENERAL MCGILL: Yes. In a letter  
25 I wrote I had made that comment and talked to him about

82

1 that as well.

2

3

Item 8. Appeals

4

5 CHAIRPERSON ASHFORD: Appeals. We have four appeals  
6 on the docket today. Before I call anyone forward, I'd  
7 like to see if there's representatives from any of these  
8 firms. Techna Systems? Northwest Electrical Service?  
9 Thomas Burrell or Mark Burrell?

10 MR. BURRELL: Yes.

11 CHAIRPERSON ASHFORD: Wright, Incorporated?

12

13

Item 8.d. Wright, Inc.

14

15 CHAIRPERSON ASHFORD: We'll start with Wright. You  
16 all have your packets for Wright. I will make a  
17 statement, and then I'll refer to Jean for a further  
18 statement.

19 The Board will take no action today because legally  
20 there is no action that we can take. And Jean will  
21 clarify that.

22 ASSISTANT ATTORNEY GENERAL MEYN: All right. On  
23 November 1, 2004, the Board received a petition for  
24 reconsideration from Harold Wright, president of Wright  
25 Incorporated with respect to citation number 34117.

83

1 Excuse me, if I may just divert from the statement  
2 briefly, this statement is in your packet.

3 Just for a little background on this particular  
4 appeal, under docket number 2003-LI-0225, the Office of  
5 Administrative Hearings issued a proposed decision and  
6 order on June 3, 2004, which dismissed citation number  
7 34117. According to the proposed decision and order, the  
8 citation was dismissed because, quote, the allegation of  
9 failure to obtain and post an electrical work permit for  
10 which Wright, Incorporated, was cited does not state a  
11 violation of RCW 19.28.101.

12 On appeal at the October 27, 2004, Board meeting, the  
13 Board heard argument actually from the Department. It  
14 appears to me by looking at the transcript that Mr. Wright  
15 did not appear; is that correct?

16 CHAIRPERSON ASHFORD: (Nodding affirmatively.)  
17 THE BOARD: (Nodding affirmatively.)  
18 ASSISTANT ATTORNEY GENERAL MEYN: All right. So --  
19 the Board members are nodding yes. Mr. Wright did not  
20 appear at that hearing.  
21 The Board reversed the proposed decision and order  
22 from the Office of Administrative Hearings and affirmed  
23 citation number 34117 and its associated \$250 penalty, and  
24 that order was entered.  
25 Regarding the motion for reconsideration by

84

1 Mr. Wright, the Administrative Procedures Act addresses  
2 the motion for reconsideration under RCW 34.05 section  
3 470, and states that "Within ten days of the service of  
4 the final order any party may file a petition for  
5 reconsideration stating the specific grounds upon which  
6 relief is requested."  
7 In this particular case, Mr. Wright did file his  
8 petition in a timely fashion with the Electrical Board.  
9 The Board took no action on that motion for  
10 reconsideration.  
11 In the Administrative Procedure Act, it further  
12 provides under that same section, "The agency is deemed to  
13 have denied the petition for reconsideration if within 20  
14 days from the date of the petition -- from the date of the  
15 filing of the petition the agency does not either a)  
16 dispose of the petition, or b) serve the parties with a  
17 written notice specifying the date by which it will act on  
18 the petition."  
19 Since the Board did neither and took no action within  
20 20 days of receiving Mr. Wright's motion for  
21 reconsideration, the motion is deemed denied under the act  
22 and the court order was final.  
23 So this is actually a legal matter of no ability for  
24 the Board to take any action today on the petition for  
25 reconsideration.

85

1 CHAIRPERSON ASHFORD: Any questions?  
2 BOARD MEMBER PREZEAU: I just have one, if I may.  
3 So for Mr. Wright, he has -- does he have any further  
4 recourse -- legal recourse outside of our -- the  
5 Electrical Board's jurisdiction like say court  
6 proceedings? Or is this the end of this matter? Or are  
7 you inclined to answer that.

8 ASSISTANT ATTORNEY GENERAL MEYN: No, I can answer  
9 that. But he really should seek his own attorney to  
10 answer that. But you're asking me as your attorney it  
11 would be my opinion that he probably has no further  
12 recourse because he needed to file his appeal in Superior  
13 Court within 30 days of that order becoming final, and  
14 that was at the end of that 20 days. That's for him to  
15 deal with in Superior Court. He may have some arguments  
16 relating to jurisdiction that he may be successful in  
17 Superior Court. But that is what the statute says.  
18 BOARD MEMBER PREZEAU: So I guess that's ultimately  
19 my question. So the appropriate next step if an appellant  
20 so chooses would be to go to Superior Court.  
21 ASSISTANT ATTORNEY GENERAL MEYN: Correct. And they  
22 have 30 days to file an appeal in Superior Court from the  
23 date of service of the final order of the Electrical  
24 Board.  
25 BOARD MEMBER PREZEAU: Thank you.

86

1 Item 8.a. Techna Systems  
2  
3 CHAIRPERSON ASHFORD: Okay. Techna Systems.  
4 ASSISTANT ATTORNEY GENERAL HAWK: Good morning, Madam  
5 Chair, members of the Board. My name's James Hawk. I'm  
6 an assistant attorney general from the Seattle office.  
7 This is my first appearance before the Board. I am  
8 representing the Department in this appeal, and I was  
9 present for the matter before the Office of Administrative  
10 Hearings as well.  
11 I can address this as the Department's representative  
12 having appealed that the Department believes these  
13 citations were appropriate. This citation is also  
14 associated with the Bishop appeal.  
15 And perhaps, Madam Chair, you'd like to hear from  
16 Mr. Bishop by introduction.  
17 MR. BISHOP: I'm Larry Bishop. I'm the administrator  
18 for Techna Systems in Marysville.  
19 ASSISTANT ATTORNEY GENERAL HAWK: The Department's  
20 petition for review, of course, within your materials  
21 summarizes the issue. There are the two appeals that were  
22 subject to a comprehensive hearing. You should have the  
23 complete transcript. There were many findings of fact and  
24 many conclusions of law rendered. The Administrative Law  
25 Judge referred to this at one point in the proposed

1 decision as a close call. And the Department based on the  
2 information the inspector gathered did not see it that  
3 way. If it is a close call, however, based on your  
4 judgment, it is a call that the Department of Labor and  
5 Industries should get.

6 This issue has to do with the concept of "out of  
7 ratio," and its specific statutory provisions are  
8 referenced in the petition and clear from the whole  
9 record. In this case, the contractor did have an  
10 electrical work permit to do the very work that the  
11 inspector was concerned with, and that is the installation  
12 of something called security wire or security wiring as  
13 it's repeatedly referred to. And the inspector made his  
14 observations and was able to identify the bundling that  
15 had occurred and determined that there were three trainees  
16 involved in that installation process. In this case, I  
17 believe, this is a specialty contractor and, therefore,  
18 the ratio requirement allows two to one. And Mr. Bishop  
19 present today was in charge of the job. He didn't have to  
20 be physically present, of course, when the Department's  
21 inspector arrived. He was below and did come up to  
22 observe and hear about the inspector's observations that  
23 there were three trainee certified individuals making  
24 contact with this so-called bundle of wire which included  
25 the security wire subject to the permit and subject to the

1 Department's regulations, and that's how the inspector for  
2 whatever limited period of time came to the conclusion  
3 that this particular contractor was out of ratio, and that  
4 therefore correspondingly the administrator also was  
5 liable under the RCW 19.28 laws.

6 The record does substantiate a very limited  
7 opportunity for this observation, but by sheer numbers and  
8 the competence of the inspector's observation, which the  
9 Department believes is reliable, these were appropriate  
10 citations.

11 I'm hopeful that I can answer any questions that the  
12 Board might have. And I have prepared an appropriate  
13 order depending on the Board's findings.

14 CHAIRPERSON ASHFORD: Mr. Bishop, we have the  
15 transcripts of the hearing. We can take no new testimony  
16 today. You may clarify, but no new testimony.

17 MR. BISHOP: Great. Well, I really don't have much  
18 to say. I don't know why they're appealing the case. We

19 went through the process of appealing the citations, and  
20 the judge determined that the evidence was in our favor.  
21 So I just stand by what was said and stated at that time.  
22 CHAIRPERSON ASHFORD: Anyone have any questions?  
23 Jim.  
24 BOARD MEMBER SIMMONS: I have a couple of questions  
25 for you.

89

1 In your testimony, there are several places where it  
2 appears to me that you change your terminology. You  
3 interchange terms as "security" and "structured" several  
4 times. For example, on page 72 of our paperwork here it  
5 says clearly two times just in that one that you -- "And I  
6 was in the crawl space tying security wire" -- and then  
7 you change it to "structured wire." That's in -- on line  
8 17 and 18.  
9 Back up on line 7, 8, 9, "Michael would come follow  
10 ... behind us with just plain security wire -- structured  
11 wire" -- Answer: "Structured wire. Excuse me. Yes,  
12 structured wire."  
13 So I'm a little confused I guess why you're  
14 interchanging the terms when the security wire was the  
15 issue. Can you clarify that?  
16 MR. BISHOP: Well, we had four people on the job that  
17 day. And two of the people were specifically instructed  
18 to do just the structure, which is phone, data and cable  
19 wire. And two of them were working on the security wires.  
20 If a person is working on the security wiring, it's  
21 totally legal for him to also pull structured wire with  
22 it. But the person working on the structured wire can't  
23 have security wire with his. So why there was confusion  
24 on that, I don't know. I think the judge had trouble  
25 determining the same thing, what was what.

90

1 BOARD MEMBER SIMMONS: And it's a little hard, you  
2 know, we're reading this -- and by the way, most of us do  
3 read these transcripts. And it gets to be a little deep.  
4 As you can see, we've had this much (indicating) reading  
5 to do for this particular meeting.  
6 Back on page 77 of the transcript, down on line 18 is  
7 another question of mine. It says, "As the person in  
8 charge you understood that bundling at the time did  
9 include security wire, right?"  
10 "Well, yes (sic), of course ...."

11 "And the security wire for which your company  
12 acquired a permit in order to install ... is that (sic)  
13 right?"  
14 "Yes (sic), correct."  
15 Now, that bundle of wire that you -- are you stating  
16 that that bundle of wire that had the security wire in it  
17 was not touched by three apprentices? Is that your --  
18 because the inspector's testimony clearly says that he saw  
19 three guys touching it. So this bundle of wire was not  
20 touched by three people. Is that your statement?  
21 MR. BISHOP: Well, as it is in the testimony, I was  
22 under the house doing stapling of wire. That's part of  
23 the security system. And I was also doing structured  
24 wiring down under the house. So I did not see anything.  
25 All I know is that they were under specific instructions

91

1 that two people were not to be touching security wire.  
2 Now, what I think probably happened and what he saw  
3 was all the wire -- security wire was already ran. And we  
4 had a big bundle of wires there. So it's entirely  
5 possible that the security guy was pulling the security  
6 wire out of that bundle because we take it into different  
7 holes in the structured can. That's the only thing that I  
8 can determine that he saw. It does point out that he  
9 observed him for less than a minute. It's my  
10 understanding that he didn't go up and question what they  
11 were doing or anything like that. He just went out to his  
12 vehicle and decided we were going to be cited.  
13 CHAIRPERSON ASHFORD: Mr. Bishop, you just stated  
14 that you did not witness this incident personally.  
15 MR. BISHOP: Correct. I was under the house.  
16 CHAIRPERSON ASHFORD: Any other questions?  
17 MR. BISHOP: And it's not required that I stand there  
18 and watch them 24 hours a day.  
19 BOARD MEMBER (D.A.) BOWMAN: I do have some  
20 questions.  
21 Mr. Hawk, in your appeal you specifically state  
22 particular findings of fact and conclusions of law that  
23 you want reviewed today. And I want -- I hate to be  
24 tedious about this, but I would almost like to go through  
25 that and find out exactly what your objection is. If we

92

1 could start with findings of fact number 4 of Docket  
2 2004-LI-0098.

3 ASSISTANT ATTORNEY GENERAL HAWK: I'll make the best  
4 efforts to catch up with you and refresh my recollection  
5 as to that reasoning.

6 And these are not my requests, of course. These are  
7 the Department of Labor and Industries' requests relative  
8 to the proposed findings and conclusions.

9 BOARD MEMBER (D.A.) BOWMAN: This is page 16 of the  
10 packet that we received.

11 ASSISTANT ATTORNEY GENERAL HAWK: What I'll have to  
12 do is -- are you referring to the Techna Systems petition  
13 for review or the Larry Bishop petition?

14 BOARD MEMBER (D.A.) BOWMAN: This would be Larry  
15 Bishop. But this -- and these findings of fact are  
16 incorporated by reference in the Techna Systems appeal.

17 BOARD MEMBER SIMMONS: To help you maybe, he's  
18 talking about the Office of Administrative Hearings, the  
19 judge's findings of fact is what he's referring to. And  
20 if you have that -- the Proposed Findings of Fact,  
21 Conclusions of Law, he's on the second page of that, which  
22 is page 16 in our packet.

23 ASSISTANT ATTORNEY GENERAL MEYN: Mr. Hawk, it might  
24 help you to look in your packet. It's page 16  
25 (indicating).

93

1 BOARD MEMBER: It's 16 in pencil.

2 ASSISTANT ATTORNEY GENERAL MEYN: The whole record is  
3 numbered, which should be very helpful.

4 ASSISTANT ATTORNEY GENERAL HAWK: And the question  
5 is why did the Department petition that this particular  
6 finding of fact be reversed? Why did the Department have  
7 objection to it?

8 BOARD MEMBER (D.A.) BOWMAN: Yes.

9 ASSISTANT ATTORNEY GENERAL HAWK: Perhaps on initial  
10 reading it is because the statement made by the  
11 Administrative Law Judge that Mr. Ulmer believed  
12 something, where the Department's assessment is a little  
13 more concrete than his belief. His training and  
14 experience within the industry which should be clear from  
15 the record would allow this inspector to understand in  
16 very definitive terms what security wiring is, especially  
17 when he's showing up at a job site where the electrical  
18 work permit is for the installation of security wiring.  
19 That probably is the Department's reasoning there. And  
20 with that revision, that particular finding of fact is  
21 appropriate.

22 Also, of course, Mr. Bishop was present. The  
23 Administrative Law Judge cites perhaps here by inference  
24 that he wasn't immediately present, but that might have  
25 been something that the Department would seek review of

94

1 too.  
2 BOARD MEMBER NEWMAN: I have a couple questions for  
3 Mr. Bishop.  
4 Can you tell me a little bit about this job?  
5 MR. BISHOP: It was a residential house. And we were  
6 doing all the phone/data cables. The structured wiring we  
7 were doing. And they were also having security installed  
8 at the same time.  
9 BOARD MEMBER NEWMAN: What kind of media were you  
10 using for the security?  
11 MR. BISHOP: Pardon me?  
12 BOARD MEMBER NEWMAN: What kind of wire?  
13 MR. BISHOP: Oh. Two conductor, four conductor, 22  
14 gauge.  
15 BOARD MEMBER NEWMAN: Okay. So just unshielded  
16 twisted pair type stuff?  
17 MR. BISHOP: Yes.  
18 BOARD MEMBER NEWMAN: So basically the same kind of  
19 media as the phone and data pretty much.  
20 MR. BISHOP: Yeah.  
21 BOARD MEMBER NEWMAN: A different color?  
22 MR. BISHOP: Yeah. It's usually more white and gray  
23 as opposed to using white, blue and green for phone and --  
24 BOARD MEMBER NEWMAN: So do you as a company, do you  
25 have any kind of standard? I mean, do you try and do them

95

1 all the same so all aren't blue, all other stuff white,  
2 anything like that?  
3 MR. BISHOP: Well, what we try to do is if we're  
4 running a phone, we run our phones in white, our data's in  
5 blue. We have certain what we call entertainment/sports,  
6 that we -- we try to standardize what our colors we use  
7 for specific purposes.  
8 BOARD MEMBER NEWMAN: Do you do any kind of pre-fab?  
9 Do you try to spool these things out ahead of time? Or  
10 are you just pretty much --  
11 MR. BISHOP: No. We just throw a box here and then  
12 -- from point A to point B.  
13 BOARD MEMBER NEWMAN: So you never saw the inspector?



14 MR. BISHOP: They called me up from under the house,  
15 yes, and he needed to check my license and all that.  
16 BOARD MEMBER NEWMAN: Do you know which way -- they  
17 were working a bundle apparently. Which way were they  
18 working the bundle?  
19 MR. BISHOP: They were at the --  
20 BOARD MEMBER NEWMAN: Were they at the back?  
21 MR. BISHOP: No. They were at what we call the head  
22 end or where the can's going to be. And I believe that's  
23 what they were doing was separating the wire to get it  
24 into the can.  
25 BOARD MEMBER NEWMAN: Okay. So the bundle's already

96

1 run.  
2 MR. BISHOP: Yes.  
3 BOARD MEMBER NEWMAN: Okay. And did they bundle this  
4 thing?  
5 MR. BISHOP: Well, typically -- this was a very large  
6 house, so the final bundle of wire was probably two or  
7 three inches in diameter. And typically we would take --  
8 you know, you got one wing of the house, we're going to  
9 have a bunch of wires coming from that end of the house  
10 where you have a bunch of wires, and they might be all  
11 bundled individually, but they all meet at the same point.  
12 BOARD MEMBER NEWMAN: So, I mean, can we ascertain  
13 from the inspector's testimony, were they working that  
14 entire tail or what were they doing? I mean --  
15 MR. BISHOP: Well, like I say, I didn't see it. So I  
16 don't know.  
17 Typically in a situation like that, they're going to  
18 run the security wire through the chase of holes followed  
19 by structured wire. And it could be going through the  
20 same chase of holes.  
21 BOARD MEMBER NEWMAN: Well, it probably is.  
22 MR. BISHOP: It is, yes.  
23 BOARD MEMBER NEWMAN: I mean, what's difficult to --  
24 some of your testimony stipulates that it's separate  
25 crews; we do it separately. In the real world you just

97

1 told me it's the same kind of wire; it might be a  
2 different color.  
3 MR. BISHOP: Security wire is typically a lot  
4 smaller.  
5 BOARD MEMBER NEWMAN: Chances are, it's going to be

6 kind of all done at the same time.

7 MR. BISHOP: Trying to maintain the duration that we  
8 can as best we can, yes.

9 BOARD MEMBER NEWMAN: But I mean, the argument for  
10 efficiency saying that you make a separate crew to have  
11 two guys only work on phone data doesn't really fit with  
12 the efficiency thing in my mind. In my mind is you kind  
13 of get everybody so that they understand everything and  
14 you all blow it in at once.

15 MR. BISHOP: Well, but you have to stay within the  
16 law. I'm quite aware of that. And that's my --

17 BOARD MEMBER NEWMAN: And we're trying to -- you  
18 know, we're looking --

19 MR. BISHOP: For example -- let's say you've got a  
20 bundle of wire that come through a center chaseway, but  
21 they all branch out into different directions. Okay? My  
22 security people can tie that whole bundle back. But  
23 nonsecurity people cannot branch out. Say you've got a  
24 phone line that goes out here, and a security wire that  
25 goes in the same direction, he can only tie back the phone

98

1 wire -- the nonsecurity person. The security person has  
2 to tie back the phone wire where it branches back -- or  
3 the security wire where it branches out. And we're quite  
4 aware of that fact.

5 I know when I gave him specific instructions that  
6 that's what we were supposed to do. That's how we were  
7 going to do that job. And I just can't believe that they  
8 wouldn't do what I told them to do.

9 BOARD MEMBER SIMMONS: Another question. In part of  
10 the inspector's statement here, you know, one of the  
11 questions I have I guess is: If an inspector walks on a  
12 job and sees two guys working over here and two guys  
13 working on a different system over here, why would he say  
14 there were three guys pulling in a bundle? You state that  
15 the cabling was already pulled in and all you have is the  
16 cable going into the head. Why would three guys be  
17 working on that? I'm having trouble understanding why  
18 there would be three guys needed to do something like that  
19 when the inspector walks in and sees three guys working  
20 with this cable. I don't understand that.

21 MR. BISHOP: Maybe one of the guys was just standing  
22 there doing nothing. I have no idea.

23 BOARD MEMBER SIMMONS: Okay. But he says in his  
24 statement here, "I believe I asked why they were out of

25 ratio because they were pulling in the bundle of cable

99

1 that included the security wire back to the control  
2 panel." Why would he say that if it was already pulled?  
3 Why would the inspector say he saw them pulling it?  
4 MR. BISHOP: I don't know.  
5 BOARD MEMBER SIMMONS: Okay. Thank you.  
6 CHAIRPERSON ASHFORD: Any further questions?  
7 BOARD MEMBER GUILLOT: One point of clarification.  
8 In my recollection you were under the house; you did not  
9 observe what your crews were doing --  
10 MR. BISHOP: That is correct.  
11 BOARD MEMBER GUILLOT: -- when the inspector first  
12 rolled up on the job.  
13 MR. BISHOP: That is correct. Yeah, they came and  
14 got me out of the crawl space.  
15 BOARD MEMBER PREZEAU: My comment was, on page 80 in  
16 the packet when we were identifying which individuals were  
17 working by name on which crews, on line 12 it says, "Okay.  
18 And so Billy Murphy and Casey Kennedy and you were the  
19 ones that were doing the electrical security wire."  
20 And then you -- I believe this is you -- and the  
21 answer is, "That's correct."  
22 "And then Rod Veessenmeyer and Michael Bradford were  
23 the other two?"  
24 "Correct."  
25 And here's sort of -- and then -- and I don't think I

100

1 have it identified in the testimony where you say in order  
2 to maintain proper ratios sometimes you would have people  
3 drill and box out who aren't supposed to be -- who are on  
4 the structured cable crew, not on the security crew. But  
5 what I find interesting to me is that Casey Kennedy I  
6 believe was identified as the one that was drilling holes  
7 within the structure and not one of the three individuals  
8 who were potentially handling the bundle of cable. And so  
9 in my mind when you say that, you know, it's difficult for  
10 you to believe that your crews would not do what you would  
11 ask them to do, it would seem to me that in any case if  
12 the bundle of cables including the security wire were  
13 being required -- reworking to get back into the -- so  
14 they could get it appropriately in the can, then Casey  
15 Kennedy in my mind would definitely have been one of the  
16 gentlemen that was handling the cable because it contained

17 security cabling. Does that --  
18 MR. BISHOP: That would have probably been ideal,  
19 yes.  
20 BOARD MEMBER NEWMAN: Okay. Do all of your guys have  
21 trainee certificates as (06) trainees?  
22 MR. BISHOP: Yes, they do.  
23 BOARD MEMBER NEWMAN: So that tells me you don't  
24 separate -- you don't separate them into what they can do.  
25 Because if the guy was just doing (09) work, he doesn't

101

1 need anything. So he wouldn't even bother with getting an  
2 (06) training certificate. Could that be kind of a true  
3 statement? I mean --  
4 MR. BISHOP: Well, we -- what if a guy's going to a  
5 different job to do security with another journeyman?  
6 BOARD MEMBER NEWMAN: Well, there we go. See, now  
7 we're getting down to the meat of the thing where this all  
8 might just be a timing issue.  
9 So you're saying that all these guys, these four guys  
10 that you have on other jobs, they can be doing security  
11 work tomorrow, today you just told them they're supposed  
12 to be doing voice data work.  
13 MR. BISHOP: To stay in proper ratio, yes.  
14 BOARD MEMBER NEWMAN: To stay in ratio.  
15 MR. BISHOP: Yes. But all of our apprentices do all  
16 our work.  
17 BOARD MEMBER NEWMAN: Understood. So there is no  
18 difference -- in your mind from an operational standpoint,  
19 there is no difference between (06), (09) work, whatever;  
20 it's the same guys doing the same work.  
21 MR. BISHOP: All our guys are (06).  
22 BOARD MEMBER NEWMAN: Exactly. It just -- it has to  
23 do with the ratios and how many journeymen you got on the  
24 job and --  
25 MR. BISHOP: Yeah.

102

1 CHAIRPERSON ASHFORD: Any more questions? Mr. Hawk,  
2 do you have any comments?  
3 ASSISTANT ATTORNEY GENERAL HAWK: Summarizing, the  
4 legislature within that statute does not put a time period  
5 on the allowance to be out of ratio. And the Department's  
6 expectation is it's mandatory all the time.  
7 To respond to Mr. Bowman's question when -- the  
8 question about why the Department would petition or reject

9 the finding of fact number 4, it's because of the  
10 credibility that the inspector deserves I believe. And  
11 having taken that out, the Department has prepared a  
12 proposed final order.  
13 There is a finding of fact that the Department asks  
14 the Board to make which is as follows: "On February 17,  
15 2005, the inspector observed the following three Techna  
16 Systems, Inc., employees who were trainee card holders  
17 performing electrical work: Billy R. Murphy, Rod  
18 Veessenmeyer, and Michael Bradford. Specifically, the  
19 electrical work they were performing was handling and  
20 installing a bundle of cables that included security  
21 wire."  
22 So while finding of fact number 4 would not exist for  
23 further review, the essential information is captured in  
24 that finding of fact for potential additional review.  
25 And lastly, the Department does believe that the

103

1 inspector's testimony was credible. The judge makes a  
2 specific observance there. The judge just got it wrong.  
3 CHAIRPERSON ASHFORD: Do the Board members want to  
4 have more discussion on this issue? Or is someone at this  
5 time ready to make a motion?  
6 BOARD MEMBER SIMMONS: Well, I want to point out one  
7 other quick little thing on page 76 at the top there,  
8 starting with line 3, it says, "And as he said" -- this is  
9 Mr. Bishop -- "And as he said ... maybe for less than a  
10 minute somebody may have touched a wire, but we try to  
11 make -- run our security wire down there so that is  
12 totally isolated."  
13 MR. BISHOP: Page 77?  
14 BOARD MEMBER SIMMONS: 76.  
15 CHAIRPERSON ASHFORD: It's handwritten.  
16 BOARD MEMBER SIMMONS: It just seems like a very  
17 difficult thing for you to supervise and be sure these two  
18 crews are staying and doing separate functions when  
19 they're all in essence doing the same work and you're  
20 under the house. It just seems very difficult for you to  
21 keep them isolated and keep them separated.  
22 I understand and I believe you that you told them  
23 up-front, "Look, you guys don't touch the security wire  
24 because we will be out of ratio. I'm going under the  
25 house." I believe you did tell them that. But it's a

104

1 very difficult thing for you to supervise and know what  
2 they were actually doing when you're under the house.

3 And when both crews and all four people are trained  
4 to do the same work, if a guy says, "Hey, can you give me  
5 a hand for a second here? We can't get this bundle  
6 down," are you going to say, "No, I can't touch that"?

7 I'm -- that's really not a real expectation in most  
8 guys' minds when they're out on that job. They're going  
9 to say, "Well, yeah, I'm going to give you a hand for a  
10 second with this."

11 And I'm sure that it wasn't an intentional thing.  
12 I'm sure that it was something that you wouldn't normally  
13 have allowed if you were up there supervising. But you  
14 weren't. And it just makes it a very difficult thing for  
15 you to say, "Well, I know they didn't touch that wire  
16 because I told them not to." I have a hard time buying  
17 that.

18 Comments?

19 MR. BISHOP: Well, I have faith in my guys. We were  
20 cited several years ago for a similar incidence where we  
21 had a new hire and we told this lead guy to take him down  
22 to get his permit. It got late in the afternoon so they  
23 decided not to do it.

24 The next day we're on a job, and I happened to be on  
25 that job also, and an inspector shows up, "What are you

105

1 doing?"

2 "Oh, pulling security wire."

3 "Where is your license?"

4 "I don't have it."

5 We were totally wrong, and we totally admitted it.  
6 And we paid the fine.

7 You know what human nature is as well as I do. I  
8 don't know what the inspector saw. You know, I know what  
9 he thinks he saw. I just don't think he was right.

10 Typically in a situation like that when we're running  
11 security, it's going to be a separate bundle bundled with  
12 another bundle. That allows it to be separated by the  
13 person who's doing the security wiring.

14 I understand where you're coming from. But -- and  
15 that's a judgment call. You know, that's a judgement  
16 call. The judge in this case thought we were right,  
17 thought that there was insufficient burden of proof on the  
18 part of the State.

19 BOARD MEMBER JACOBSEN: Madam Chairperson, in the

20 past, these appeals that have come from the Attorney  
21 General's office have tended to turn on technical  
22 questions. The hearings officer misunderstood or  
23 misapplied the code, and the expertise of the Board was  
24 brought to bear to correct that misunderstanding.  
25 This seems to come down to an issue of credibility of

106

1 witnesses. We don't have the luxury that the hearings  
2 officer did of hearing all the testimony at one time.

3

4

Motion

5

6 BOARD MEMBER JACOBSEN: With that said, I would make  
7 a motion that the Board uphold the findings of the  
8 hearings officer and not try and second guess the hearings  
9 officer's review of the credibility of the witnesses.

10 CHAIRPERSON ASHFORD: We have a motion to uphold the  
11 ALJ's decision.

12 BOARD MEMBER GOUGH: I would second that motion.

13 CHAIRPERSON ASHFORD: We have a motion and a second.  
14 Any further discussion?

15 BOARD MEMBER SIMMONS: It's a tough one.

16 ASSISTANT ATTORNEY GENERAL MCGILL: Madam Chair, a  
17 point of clarification, if I may, from the Attorney  
18 General's office, on behalf of the Department of Labor and  
19 Industries.

20 With regard to the credibility issue, Mr. Board  
21 Member, it is the prerogative of the Board from our point  
22 of view you may stand and make your own judgment call with  
23 regard to credibility of witnesses. You do not have to  
24 rely on your hearing officer to do so.

25 The Department in this case requests that you and

107

1 this Board are the experts here and are better qualified  
2 in terms of making these types of determinations.  
3 Oftentimes you're exactly right. Our hearing officers  
4 sometimes get it wrong with regard to a technical  
5 question. I think that is the virtue of this Board, and  
6 that is why the Department asks you to reverse the hearing  
7 officer's decision here and find that the citation is  
8 valid.

9 BOARD MEMBER JACOBSEN: And I understand that we do  
10 have the flexibility to rule on the credibility of  
11 witnesses. What I'm suggesting is we don't have the

12 opportunity to hear all the testimony in the context of  
13 the hearing. And it's difficult for me to second guess.

14 ASSISTANT ATTORNEY GENERAL MCGILL: And the  
15 Department would just reiterate the availability of the  
16 transcripts, full well knowing that transcripts are not  
17 exactly the same as looking at someone in their face and  
18 their eye. Although, I will note that many of the OAH  
19 hearings are done via phone. And so the hearing officer  
20 himself or herself oftentimes does not have that  
21 availability.

22 MR. BISHOP: Which was not the case here.

23 ASSISTANT ATTORNEY GENERAL MCGILL: And it's not the  
24 case here; I understand. And I will defer to Mr. Hawk  
25 with regard to the transcript on that.

108

1 But just to reiterate the concept here. And it's one  
2 from a legal perspective that some boards struggle with,  
3 and that is whether you should kind of step in that  
4 person's shoes and look and make that judgement call. And  
5 the Department thinks you should. That's all I'm saying.

6 CHAIRPERSON ASHFORD: Mr. Parker has another comment.

7 BOARD MEMBER PARKER: Yes. To me when I'm looking at  
8 this, I also take a look in the intent the contractor may  
9 have been to keep his crews separately. I've been on the  
10 job site for too many years to realize that you're not  
11 going to help your partner out if they're struggling, and  
12 we're basically at this point saying the electrical  
13 inspector did not walk up, did not take a look and see  
14 these three trainees handling the bundle of wires which  
15 you call structure and security. And my concern is is  
16 we're saying in credibility that the electrical inspector  
17 wasn't capable of taking a look and seeing if these three  
18 people had their hands on this group of wire at the same  
19 time. And at this point I'd probably vote against the  
20 motion and go the other direction.

21 Thank you.

22 BOARD MEMBER (D.S.) BOWMAN: I'd like to make one  
23 comment. This is -- this one's awfully close to call. I  
24 mean, we're talking about credibility of witnesses. None  
25 of us were there. We're just going by the transcripts

109

1 from a motion. We're looking at the public safety as the  
2 bottom line of our purpose being here. And I don't see  
3 where this is really -- since it's so close to call --



4 where it's really a public safety issue. So I would have  
5 to say we'd have to uphold the findings of the ALJ on this  
6 one.

7 CHAIRPERSON ASHFORD: Mr. Newman.

8 BOARD MEMBER NEWMAN: Well, the way that I'm looking  
9 at this thing is, I appreciate Mr. Bishop taking the time  
10 to come down here, number one, and speak to the Board  
11 about this.

12 I do find it -- the one I struggle with is that all  
13 of your trainees are all trained and do that kind of work  
14 day in and day out. So I see this thing as being more of  
15 a this is just an anomaly, if you will, that happened on  
16 that day where you had too many of them at one place.  
17 Because to make the argument that it's a separate crew,  
18 training-wise or anything like that, I don't think flies.

19 So it's just a matter of you -- you know, you made an  
20 assumption that those guys were going to keep their hands  
21 off of it. And you know what happens when you assume  
22 something. It happens to me every day.

23 On the other hand, I do appreciate the fact that you  
24 feel strongly enough about this to come down here and give  
25 your point of view to the Board.

110

1 This is really tight.

2 CHAIRPERSON ASHFORD: This is a tough one.

3 ASSISTANT ATTORNEY GENERAL MEYN: Madam Chair, I  
4 wanted to make sure that the Board members are aware of  
5 what the burden of proof is of the appellant, which is the  
6 Department. Are you aware of what that is under your  
7 rules?

8 It is by a preponderance, which means more probably  
9 true than not.

10 BOARD MEMBER (D.A.) BOWMAN: Jean, can we back up one  
11 more from that then?

12 The original appeal was by Techna Systems to go in  
13 front of the hearings judge. Where was the burden of  
14 proof in that hearing? At that point it was on the  
15 appellant, correct?

16 ASSISTANT ATTORNEY GENERAL MEYN: Correct.

17 BOARD MEMBER (D.A.) BOWMAN: And if I read the  
18 findings of fact or conclusion of law, then the judge's  
19 statement was that the Department had not lived up to a  
20 burden of proof, but it was not the Department's  
21 obligation to live up to that burden of proof at that  
22 time.

23 ASSISTANT ATTORNEY GENERAL MEYN: That is correct.  
24 BOARD MEMBER (D.A.) BOWMAN: Okay. Thank you.  
25 CHAIRPERSON ASHFORD: We still have our motion and

111

1 second on the table to affirm the ALJ's decision.  
2 BOARD MEMBER GUILLOT: Madam Chair, I call for the  
3 question.  
4 CHAIRPERSON ASHFORD: Thank you.  
5 Okay, we will take a hand vote. All those in favor  
6 signify by raising your hand.  
7 BOARD MEMBER SIMMONS: Clarify the vote please, Madam  
8 Chair.  
9 CHAIRPERSON ASHFORD: All those in favor of the  
10 motion to affirm the ALJ's decision, please signify by  
11 raising your hand.  
12 ASSISTANT ATTORNEY GENERAL HAWK: With respect to  
13 both appeal matters, for clarification.  
14 CHAIRPERSON ASHFORD: So clarified.  
15 So let's try again. All those in favor of upholding  
16 the ALJ's decision on both issues, please signify by  
17 raising your hand.  
18 (Board Members Gough, Newman, Jacobsen, D.S. Bowman,  
19 Guillot, Simmons, Kopczynski raised hands.)  
20 CHAIRPERSON ASHFORD: Opposed?  
21 (Board Members Parker, Tricarico, Prezeau, D.A.  
22 Bowman raised hands.)  
23 CHAIRPERSON ASHFORD: The motion carries.  
24  
25 Motion Carried

112

1 ASSISTANT ATTORNEY GENERAL HAWK: Madam Chair, I did  
2 not bring that order. Therefore, the Department will have  
3 additional business relative to these two appeals at a  
4 later time.  
5 CHAIRPERSON ASHFORD: Thank you, gentlemen.  
6 MR. BISHOP: What does that mean?  
7 BOARD MEMBER SIMMONS: Mr. Bishop, you won.  
8 CHAIRPERSON ASHFORD: You won this time. But as an  
9 employer and as administrator, you ultimately are  
10 responsible for everything that your employees do if you  
11 give them specific instructions, and they fail to follow  
12 those.  
13 MR. BISHOP: Thank you.  
14 BOARD MEMBER SIMMONS: Please be careful.

15 MR. BISHOP: No more assumptions.  
16 CHAIRPERSON ASHFORD: A bullet dodged.  
17 (Briefly off the record.)  
18 CHAIRPERSON ASHFORD: Thank you for your indulgence.  
19 Okay, Northwest Electrical Service.  
20 BOARD MEMBER TRICARICO: Madam Chair, a point of  
21 order before we move on. May I?  
22 CHAIRPERSON ASHFORD: Yes.  
23 BOARD MEMBER TRICARICO: I have a question about the  
24 Roberts Rules. Once a motion is made and seconded,  
25 shouldn't the discussion be limited only to the members of

113

1 the Board who will be voting unless, of course, the Chair  
2 asks for an expert opinion on something? Should we not be  
3 listening to others in the audience or other officials,  
4 whoever, interjecting at that point? Shouldn't that be  
5 limited just to the discussion of the Board members who  
6 are voting? Other than, like I say, unless you are  
7 calling for an expert or Board members asking you to call  
8 for an expert?  
9 ASSISTANT ATTORNEY GENERAL MEYN: Well, someone did  
10 bring the magical golden Roberts Rules. And I will need  
11 to look and see. I haven't looked at them recently; I'm  
12 sorry. Unless someone else is familiar with the Roberts  
13 rules.  
14 BOARD MEMBER TRICARICO: But I -- you know, once  
15 again, I would like to --  
16 CHAIRPERSON ASHFORD: Jean will look that up for us  
17 and address it.  
18  
19 Item 8.b. Northwest Electrical Service  
20  
21 CHAIRPERSON ASHFORD: We'll go on with Northwest  
22 Electrical Service. Mr. Hawk, you are up again.  
23 ASSISTANT ATTORNEY GENERAL HAWK: Thank you. This  
24 will be my first appearance. I'm not sure precisely how  
25 to proceed when the other party fails to show up. It is

114

1 the other party, the contractor entity, who brought this  
2 matter before the Board, and the Department, therefore, is  
3 in a responding position.  
4 I've prepared an appropriate final order that reads,  
5 "Northwest Electrical Services did not appear for the  
6 hearing," and then goes on to affirm the good work of the

7 Administrative Law Judge presented in this record, and  
8 therefore will affirm the noncompliance citations that  
9 were appealed.

10 So it appears to the Department that the appellant,  
11 Northwest Electrical Services, and Mr. Gary as  
12 administrator, has abandoned its appeal and believes that  
13 the final order is appropriate now.

14 CHAIRPERSON ASHFORD: On the advice of Jean, the  
15 Board should look at finding of fact number 7 so we all  
16 understand exactly what we are voting on today.

17 ASSISTANT ATTORNEY GENERAL MEYN: If I may, my  
18 concern was that the Department's petition is not just a  
19 straight affirm or not, and just be cautious that you know  
20 what's being asked of you.

21 (Pause in proceedings.)

22 CHAIRPERSON ASHFORD: Did everyone find it?

23 BOARD MEMBER PARKER: We're looking at 7, on page  
24 handwritten 5?

25 CHAIRPERSON ASHFORD: On page handwritten 5.

115

1 BOARD MEMBER PARKER: Because I started with number 7  
2 on 6.

3 ASSISTANT ATTORNEY GENERAL MEYN: Oh, you're right.  
4 I'm sorry.

5 Perhaps, Mr. Hawk, do you want to address your  
6 proposal of the final order?

7 ASSISTANT ATTORNEY GENERAL HAWK: Yes. Thank you.

8 This one is procedurally postured differently because  
9 the Department is not the one challenging the  
10 Administrative Law Judge's decision. And so as you don't  
11 have the benefit in your appeal packet of the final order  
12 that the Department is proposing, I can address the  
13 contents thereof and perhaps in future appearances I'll  
14 have it right so that everyone will have the benefit of  
15 the Department's thinking with respect to the final order  
16 as proposed. And so I appreciate your indulgence.

17 The Department final order as proposed here for  
18 signature by the Electrical Board Chair includes the  
19 following. I'll recite those. I've already highlighted  
20 in the preamble that Northwest Electrical Services did not  
21 appear for the hearing.

22 The amended findings of facts, conclusions of law and  
23 decision dated November 3 of 2005 is affirmed, thereby  
24 affirming citation numbers 36773 and 36774 and the  
25 associated civil penalty assessments of \$600 and \$250

1 respectively. That is the order portion as proposed.  
2 The Board in its finding of fact incorporates from  
3 the proposed decision findings of fact numbers 1 through  
4 6. Finding of fact number 7 is reversed. Additionally,  
5 the Board finds as a finding of fact 2, the business  
6 entity, Northwest Electrical Services, was performing  
7 electrical work on March 3, 2005, under the electrical  
8 contractor license number NORTHE001CZ. Finding of fact  
9 3, in 2003, Northwest Electrical Services was issued a  
10 citation -- the number is 45704 -- alleging a violation of  
11 RCW 19.28.271. That citation was affirmed and became  
12 final, but the civil penalty assessment was waived.  
13 Again, that finding of fact traceable to the record  
14 created before the Board at the hearing.  
15 The conclusions of law: Therefore, the Board has  
16 subject-matter jurisdiction. The second reads: The Board  
17 herein incorporates from the proposed decision conclusions  
18 of law numbers 1 through 6. Conclusion of law number 7 is  
19 reversed. The Board additionally concludes conclusion of  
20 law 3 under WAC 296-46B-195, the civil penalty assessment  
21 of \$600 for citation number 36773 is affirmed, as this  
22 citation represents a second offense of RCW 19.28.271.  
23 And number 4, the civil penalty assessment of \$250 for  
24 citation number 36774 is affirmed.  
25 The Department has strived with this final order to

1 capture all of the issues that were brought on appeal  
2 before the Board relating to the merits of the RCW,  
3 alleged violation and the corresponding civil penalty  
4 assessments. And for further potential judicial review,  
5 this final order captures all of this essential  
6 information.  
7 CHAIRPERSON ASHFORD: Does anyone have any questions  
8 of Mr. Hawk? Is anyone ready to make a motion on this  
9 issue?  
10  
11 Motion  
12  
13 BOARD MEMBER PARKER: Madam Chair, at this point I'd  
14 like to make the motion that we affirm the inclusion of  
15 the Department final orders and affirm citation 36773 and  
16 36774.  
17 BOARD MEMBER SIMMONS: I will second that.

18 CHAIRPERSON ASHFORD: We have motion. We have a  
19 second. Fred.  
20 BOARD MEMBER TRICARICO: Can we, to amend that, say  
21 that we also -- with the associated findings -- to include  
22 the associated findings?  
23 BOARD MEMBER PARKER: I'm not sure of that. Because  
24 I think if we include the Department's final order, the  
25 final order had the fines it listed.

118

1 CHAIRPERSON ASHFORD: We have a motion and a second.  
2 Any further discussion? Call for the question.  
3 BOARD MEMBER GUILLOT: The question please.  
4 CHAIRPERSON ASHFORD: All those in favor of upholding  
5 the ALJ's decision with regards to citation E36773,  
6 E36774, and the final orders please signify by saying  
7 "aye."  
8 THE BOARD: Aye.  
9 CHAIRPERSON ASHFORD: Opposed?  
10  
11 Motion Carried  
12  
13 ASSISTANT ATTORNEY GENERAL HAWK: And for  
14 clarification, Madam Chair, the Department is asking that  
15 the finding of fact 7 be reversed and conclusion of law 7  
16 be reversed, but with those clarifications that final  
17 product is appropriate.  
18 May I approach? With my colleague Jean Meyn's  
19 allowance I'll bring the final order to the Chair.  
20 ASSISTANT ATTORNEY GENERAL MEYN: And actually the  
21 Chair has my copy and can sign it if --  
22 CHAIRPERSON ASHFORD: Oh, I marked on it. Yes.  
23 (Pause in proceedings.)  
24 ///  
25 ///

119

1 Item 8.c. Thomas Burrell & Mark Burrell  
2  
3 CHAIRPERSON ASHFORD: The next agenda item.  
4 Burrells. You are here to appeal the ALJ's decision.  
5 Would you please state your name.  
6 MR. T. BURRELL: Yes. My name is Tom Burrell.  
7 CHAIRPERSON ASHFORD: Oh, I'm sorry. I was  
8 mispronouncing that. Burrell?  
9 MR. T. BURRELL: Burrell. My brother says Burrell

10 (variant pronunciation). Anyway, it's B-U-R-R-E-L-L.  
11 MR. M. BURRELL: And I'm Mark Burrell.  
12 CHAIRPERSON ASHFORD: As you probably heard us state  
13 earlier, we're here to hear your appeal, but we can take  
14 no new testimony. It's only what you have spoken earlier.  
15 Okay. Gentlemen.  
16 MR. T. BURRELL: We're new at something like this.  
17 I'm glad to be here, though. I got to learn a lot.  
18 You know, what we've got here is I was the  
19 administrator of a company called Elec Sys for a short  
20 period of time. And when it was time for me to -- my son  
21 was working with the company also. And when it was time  
22 for him to get his hours, he had requested hours -- we  
23 weren't working with the company any longer. And he had  
24 requested hours so that he could become a journeyman. And  
25 after -- I don't know how many times. He'll bring that up

120

1 how many times it took for him to finally get his hours.  
2 We brought them to L & I. And I know a number of  
3 people in the Tukwila office, so I had, "Hey, hi." And  
4 they came up. And I said, "Hey, this is the first time  
5 I'm going to sign hours as an administrator. What do I  
6 have to do?"  
7 And they said, "Oh, just sign here."  
8 And so I signed there. I said, "Oh, how about Mark?"  
9 And they said, "Sign there."  
10 And I said, "Oh, great. How long will it take before  
11 we get the results for" -- you know, because we know that  
12 they're audited, you know. I suspect that all the hours  
13 are audited. So I said, "You know, how long will it take?  
14 Because he only needs like 200 hours."  
15 CHAIRPERSON ASHFORD: Mr. Burrell, I have to  
16 interrupt you apparently in error. The only issue we can  
17 address today is -- if we go to page 7 in our books.  
18 MR. T. BURRELL: Oh, sorry about that. Sorry Jean.  
19 CHAIRPERSON ASHFORD: The default, that issue. You  
20 did not appear.  
21 MR. T. BURRELL: Oh, the default. Oh, yeah. Yeah,  
22 there's another one.  
23 Here's what happened. I got a notice in the mail on  
24 the 29th, right? It said that I'd get a phone call. And  
25 I thought, "Oh, that's great. That's my son's birthday."

121

1 And when I was put it in my calendar, I was thinking his

2 birthday was the 30th. I don't know why. And so I put it  
3 down on the 30th. And so sure enough, I missed this call,  
4 right?

5 And I get a letter in the mail that says, "Hey, you  
6 defaulted." I thought, "defaulted"? You know.

7 Sure enough, I wrote the judge a letter. And I don't  
8 think I got a response; I can't remember. But so I wrote  
9 another letter, and I'm sure glad they put it in this  
10 package. Because I thought, "Oh, good, it's right there."

11 And, you know -- and so that's what brought us here.  
12 I thought the second letter must have hit home or  
13 something. I was hoping, you know. And then I got  
14 another letter saying, hey, I could come here. And this  
15 is what happened.

16 MR. M. BURRELL: I'd like to say a few things. I did  
17 get a phone call from the Attorney General. The day  
18 before the phone call -- and I was on the road on my way  
19 home from California, Thanksgiving time. And I got home  
20 really late, and I knew I was to answer the phone call.  
21 So when it rang, I was really tired, and I didn't pick it  
22 up. And then I -- you know, I have a real problem with  
23 time management and also with dealing with confrontations  
24 on the phone when I'm really tired. But I did call him  
25 back ten minutes later, and he had told me about this

122

1 which it was dismissed because of that. I apologize.

2 ASSISTANT ATTORNEY GENERAL HAWK: Madam Chair and  
3 Board members, this matter is before the Board with a  
4 potential final order for signature styled as follows:  
5 Order adopting order dismissing petition to vacate  
6 default. And this brings us to almost a locked-school-  
7 classroom setting and also does perhaps highlight the  
8 values sometimes of having an attorney or an advocate  
9 who's able to follow critical deadlines in statutory form,  
10 or at least provide appropriate device for those who are  
11 subject to these. And in this case, the two individuals  
12 who were cited by the Department and provided according to  
13 the packet appropriate notice of a conference didn't show  
14 up.

15 They -- the Board may be well informed on the work of  
16 the Office of Administrative Hearings, but these judges do  
17 not wait around for L & I matters. They're  
18 comprehensively busy with State's work having to do with  
19 automobile forfeiture to school disciplinary issues,  
20 employment security. So when Labor and Industries



21 business visits the Office of Administrative Hearing, they  
22 take the matters up responsibly and are hopeful that the  
23 matters can be expeditiously resolved.

24 By way of editorial, my office similarly needs to  
25 have these cases treated according to statute and rule

123

1 expeditiously so we can go on to the next business.

2 This case of Burrells having failed to show up at the  
3 initial conference without appropriate notice did not  
4 provide sufficient reason in the judge's estimation  
5 according to this record and another conference was not  
6 scheduled. What the parties received is an order of  
7 dismissal, called a default.

8 And this is where the RCW training comes in handy.  
9 The Administrative Procedure Act has a mechanism for these  
10 burdened Administration Law Judges to get rid of or  
11 dispose of matters by a default order when someone does  
12 not show up at a particular point in time, and especially  
13 when that party has the burden of proof. Then a default  
14 order issues. This judge did that. That's part of the  
15 appeal packet.

16 And from that order of dismissal and with respect to  
17 the all-important note there, page 16 in the appeal  
18 packet, the Messrs. Burrell attempted to file a document  
19 that was construed as a motion requesting that the order  
20 be vacated.

21 The order of dismissal default was served -- you can  
22 see on page 16 -- served on the date of mailing, which is  
23 consistent with the RCW mandate. And, therefore, the  
24 clock starts running on this opportunity for a judge to  
25 review. And within that seven-day time period, the

124

1 appellants here failed to get that petition or document to  
2 the Office of Administrative Hearings, so that the judge  
3 had no other choice but to issue this order dismissing  
4 petition to vacate default which finds according to its  
5 very terms -- page 8 of the appeal packet -- that the  
6 request that the default be vacated was late.

7 In this entire process, the Office of the Attorney  
8 General to my knowledge and the Department of Labor and  
9 Industries was not petitioned to assist the relief  
10 requested. I was ignorant of what the judge had in mind.

11 But by way of procedure and practice, here's the  
12 product that the judge delivered to my office, just showed

13 up in the "In" box. And that is the order that's on  
14 appeal. It's called an order dismissing petition to  
15 vacate default. The judge found it was too late, and  
16 looking at the statutory provisions that are you charged  
17 knowing and my office is also charged with knowing, but  
18 this is an appropriate decision based on the chronology.  
19 Our office -- the Attorney General's office representing  
20 the Department doesn't have hand-holding obligations.  
21 This is the product that the Department is seeking to have  
22 affirmed because of the mandates of the Administrative  
23 Procedure Act, which the legislature put in place.  
24 That's all I have. Thank you.  
25 CHAIRPERSON ASHFORD: Tracy has a question.

125

1 BOARD MEMBER PREZEAU: I have several actually.  
2 So if I could summarize this in layman's terms  
3 perhaps, so what you're saying is that -- I certainly  
4 understand the certification issue, what the Burrells were  
5 speaking to and why the initial citation was granted. So  
6 what you're saying is there was a hearing, which was  
7 supposed to be scheduled via telephone conference, and  
8 that was supposed to be November 29th at 8:15 in the  
9 morning or 8:30, and the appellants were not present at  
10 that telephone conference. And then under the law they  
11 have the ability to appeal within seven days in writing to  
12 petition another hearing; is that correct?  
13 ASSISTANT ATTORNEY GENERAL HAWK: Well, a couple  
14 things perhaps deserve comment or clarification.  
15 The event to which both the Burrells with proper  
16 notice -- received notice of was a prehearing conference.  
17 So it wasn't a hearing for receiving evidence or  
18 information of a record type by the Administrative Law  
19 Judge. This is the procedural mechanism to figure out a  
20 date for a hearing, to figure out if there are any  
21 outstanding issues to talk about, when the Department will  
22 have exhibits and --  
23 BOARD MEMBER PREZEAU: And so that's the November  
24 29th at 8:15 in the morning telephone conference; is that  
25 correct? On page 15 of our packets?

126

1 ASSISTANT ATTORNEY GENERAL HAWK: Yes.  
2 BOARD MEMBER PREZEAU: Okay.  
3 ASSISTANT ATTORNEY GENERAL HAWK: And the judge would  
4 have called the Department's representative -- me at that

5 time -- and attempted to contact with both the Burrells,  
6 and the judge was unsuccessful.  
7 BOARD MEMBER PREZEAU: So then at that point the  
8 Burrells have seven days to submit a written request for a  
9 new date, prehearing conference.  
10 ASSISTANT ATTORNEY GENERAL HAWK: No, not exactly.  
11 The Administrative Law Judge had to go back to his  
12 machine, his computer, and generate this order of  
13 dismissal of default --  
14 BOARD MEMBER PREZEAU: To vacate.  
15 ASSISTANT ATTORNEY GENERAL HAWK: -- which is the  
16 appeal packet, page 15.  
17 BOARD MEMBER PREZEAU: Okay.  
18 ASSISTANT ATTORNEY GENERAL HAWK: And this  
19 Administrative Law Judge according to the explicit terms  
20 here, it is ordered that this administrative proceeding is  
21 dismissed. And the judge cites RCW 34.05.440, subsection  
22 2, which is reference may also be found in the notice of  
23 prehearing conference. So the Administrative Law Judge  
24 and the administrative hearings office is dealing with  
25 thousands of appeals a year from the legislature has this

127

1 opportunity to default parties when they don't show up for  
2 a significant --  
3 BOARD MEMBER PREZEAU: So that's what they appealed  
4 in writing?  
5 ASSISTANT ATTORNEY GENERAL HAWK: The attempt was  
6 made to appeal the order of dismissal default, the page 15  
7 document, and the judge without any contact with the  
8 Department or my office to my knowledge determined that  
9 that document which he construed to be the petition to  
10 vacate the default order was late, and therefore, the  
11 order dismissing petition to vacate default is the order  
12 now on appeal to the Electrical Board because the judge  
13 determined on December 30th -- it says here served on the  
14 date of mailing, page 8 -- the judge determined it was  
15 late, and therefore, he had no prerogative under the RCW  
16 laws other than to dismiss the appeal.  
17 So the judge, of course, never reached the merits of  
18 what Mr. Burrell perhaps would like to talk about today.  
19 And the Department doesn't believe that this is a merits  
20 hearing. This evolution is in the record. And the judge  
21 concluded both Burrells got there too late, and the record  
22 supports that, and that is why the Department's proposed  
23 final order here dismisses these appeals by way of

24 affirming the order dismissing petition to vacate default.  
25 And the Board, of course, has jurisdiction to entertain

128

1 that order or consider whether there was timely appeals.

2 BOARD MEMBER PREZEAU: Sorry. I just have one more  
3 question.

4 CHAIRPERSON ASHFORD: Go ahead, please.

5 BOARD MEMBER PREZEAU: Okay. So the appeals process  
6 that the Burrells are exercising today in response to the  
7 order dismissing petition to vacate default or page 8 in  
8 the packet, they did so in writing to whom?

9 ASSISTANT ATTORNEY GENERAL HAWK: That would be  
10 according to the RCW 19.28 laws with the appeal to the  
11 chief electrical inspector serving as secretary to the  
12 Electrical Board; page 3, 4 and 5 the Department would  
13 construe to be that appeal which is definitely timely.

14 BOARD MEMBER PREZEAU: Okay. That's basically what I  
15 wanted -- I just wanted to make sure that what we are  
16 doing today is timely, again, under RCW.

17 ASSISTANT ATTORNEY GENERAL HAWK: Yes. And this  
18 case, unlike the others, you are not having to decide on a  
19 proposed decision, per se. At least it's not explicitly  
20 titled a proposed decision. When it's reached you through  
21 the vehicle of operation of the Administrative Procedure  
22 Act, RCW 34.05 is a default. And a Superior Court judge  
23 sitting in your circumstance visiting any number of  
24 Administrative Procedure Act cases under different  
25 statutes would know precisely what this default relates to

129

1 and would precisely know that authority that he or she has  
2 to act on what is the final order of the Office of  
3 Administrative Hearings.

4 And that's the position that the Board finds itself  
5 in today. And the Department is asking that the judge's  
6 product, that final order from the Office of  
7 Administrative Hearings, be affirmed.

8 BOARD MEMBER TRICARICO: Madam Chair?

9 CHAIRPERSON ASHFORD: Yes.

10 BOARD MEMBER TRICARICO: To our attorney may be the  
11 best place to direct this.

12 If we uphold the judge's petition to vacate the  
13 default, then if I'm correct, the Burrells' process is  
14 finished?

15 ASSISTANT ATTORNEY GENERAL MEYN: No. They can

16 appeal your ruling to Superior Court.  
17 BOARD MEMBER TRICARICO: Right, exactly.  
18 ASSISTANT ATTORNEY GENERAL MEYN: Yes.  
19 BOARD MEMBER TRICARICO: But I mean, as far as this  
20 Board is concerned, we're done with the issue.  
21 ASSISTANT ATTORNEY GENERAL MEYN: Correct.  
22 BOARD MEMBER TRICARICO: If we don't uphold it and we  
23 -- then what happens to it then? Does it go back to the  
24 Administrative Law Judge for a hearing?  
25 ASSISTANT ATTORNEY GENERAL MEYN: Yes, it would go

130

1 back to them for a hearing.  
2 And let me just make sure that you understand the  
3 issue before you, if I may, given the series of questions.  
4 If you look at page 7 and 8, those are the orders on  
5 appeal. As you probably can tell from the discussion,  
6 what is on appeal is basically was the reason of the judge  
7 correct that the petition to vacate the order on default  
8 was more than seven days -- was received more than seven  
9 days.  
10 CHAIRPERSON ASHFORD: Mr. Newman.  
11 BOARD MEMBER NEWMAN: So the question is: Do we want  
12 to give them another opportunity to have a hearing and  
13 come before the Electrical Board with the original two  
14 citations?  
15 ASSISTANT ATTORNEY GENERAL MEYN: No.  
16 CHAIRPERSON ASHFORD: No, no. They would not be  
17 coming before the Board if I understand correctly.  
18 BOARD MEMBER NEWMAN: That's if we affirm it. If we  
19 affirm it, it's done.  
20 ASSISTANT ATTORNEY GENERAL MEYN: Correct.  
21 And the next avenue is that order is appealed to  
22 Superior Court.  
23 If you overturn the order, it would be returned to  
24 the Administrative Law Judge to begin the process again.  
25 BOARD MEMBER NEWMAN: Right. And then they --

131

1 ASSISTANT ATTORNEY GENERAL MEYN: For hearings. And  
2 then there would be hearings. It may or may not come to  
3 you. If there were an appeal after those hearings, then  
4 it would come back. On the merits.  
5 CHAIRPERSON ASHFORD: Jean, so to clarify, what  
6 basically the issue we're looking is timeliness.  
7 ASSISTANT ATTORNEY GENERAL MEYN: Correct. And the

8 proper properness of the order dismissing the petition to  
9 vacate the default order.

10 BOARD MEMBER TRICARICO: Madam Chair, one more  
11 question.

12 Back to the attorney again. In fact, by the judge's  
13 documentation, the timeliness issue was not met. Do we  
14 have the authority to say that even though the timeliness  
15 was not met, can we send it back to the Administrative Law  
16 Judge? Or is it a cut-and-dry legal issue that the  
17 timeliness was not met, so therefore it's over? I'm  
18 questioning whether we really have the authority to  
19 overturn this.

20 ASSISTANT ATTORNEY GENERAL MEYN: I think that you  
21 can look at the underlying factual issue of whether or not  
22 it was on time. But then I think you would need to follow  
23 the law.

24 ASSISTANT ATTORNEY GENERAL HAWK: And if I may at  
25 this point, in regard to that issue, in RCW 34.05,

132

1 legislative creating has abundant definitions just as RCW  
2 19.28 defines things. And the legislature has defined  
3 "filing" in 34.05.010, subsection 6, "Filing of a document  
4 that is required to be filed with an agency means delivery  
5 of that document to a place designated by the agency by  
6 rule or receipt of official documents, or in abscess of  
7 such designation, at the office of the agency head." And  
8 so by putting it in the mail, the document that purported  
9 to appeal or petition from the order of dismissal for  
10 default, that is insufficient according to the way filing  
11 is used. And that word is, of course, used in the RCW  
12 34.05 definition that the judge relies on when he issues  
13 an order dismissing petition to vacate default. And I  
14 could put that in a legal brief at a later point in time.  
15 But if it is essential to your understanding of why the  
16 judge contemplated the appeal was late and why the  
17 Department believes it's time for a final order, that  
18 definition is in place.

19

20 Motion

21

22 BOARD MEMBER (D.A.) BOWMAN: I move that we uphold  
23 the order dismissing the petition to vacate default.

24 BOARD MEMBER TRICARICO: Second.

25 CHAIRPERSON ASHFORD: We have a motion and a second

1 to affirm the order dismissing petition to vacate default.  
 2 Any discussion? Any questions?  
 3 BOARD MEMBER GUILLOT: Madam Chair, I would call for  
 4 the question.  
 5 CHAIRPERSON ASHFORD: All those in favor, signify by  
 6 saying "aye."  
 7 THE BOARD: Aye.  
 8 CHAIRPERSON ASHFORD: Opposed?  
 9  
 10 Motion Carried  
 11  
 12 ASSISTANT ATTORNEY GENERAL HAWK: And for the record,  
 13 that motion the Department understands to relate to both  
 14 appeals --  
 15 BOARD MEMBER SIMMONS: Both.  
 16 ASSISTANT ATTORNEY GENERAL HAWK: -- and I will  
 17 provide Messrs. Burrell copies of the final order that I  
 18 will bring forward at this time.  
 19 (Pause in proceedings.)  
 20 CHAIRPERSON ASHFORD: Jean, did you find an answer  
 21 for Fred on Roberts Rules?  
 22 ASSISTANT ATTORNEY GENERAL MEYN: I want to make sure  
 23 that I understand the question. Is the question may only  
 24 members debate the motion?  
 25 BOARD MEMBER TRICARICO: Correct.

1 ASSISTANT ATTORNEY GENERAL MEYN: Okay. In the  
 2 section on Roberts Rules --  
 3 SECRETARY FULLER: I don't think that's quite how you  
 4 posed it.  
 5 BOARD MEMBER TRICARICO: Well --  
 6 SECRETARY FULLER: I think the question was can other  
 7 people interject into the discussion.  
 8 BOARD MEMBER TRICARICO: My question really is this:  
 9 Once a motion is made and seconded, should not all  
 10 discussion be limited to just the Board members, except if  
 11 the Chair or through the Chair a member asks for  
 12 clarification from somebody outside of the voting body?  
 13 ASSISTANT ATTORNEY GENERAL MEYN: Okay. Well, in  
 14 reading through the section on Roberts Rules about debate,  
 15 they don't really answer your questions directly. What  
 16 Captain Roberts says -- he was a captain in the Navy --  
 17 all the references are to members. Members, members,  
 18 members. But they don't directly say if someone who's not

19 a member wants to help and provide information you can or  
20 cannot do it. So in my cursory review on the section that  
21 I could find, it wasn't answered directly, except if you  
22 want to infer because they only mention members in the  
23 debate that they meant something. But I didn't find a  
24 clear answer to your question.  
25 CHAIRPERSON ASHFORD: When they refer to members,

135

1 would that be voting members?  
2 ASSISTANT ATTORNEY GENERAL MEYN: Yes, that's how I  
3 would interpret that.  
4 CHAIRPERSON ASHFORD: Because we have two non-voting  
5 members.  
6 ASSISTANT ATTORNEY GENERAL MEYN: No, I would  
7 interpret that as voting -- well --  
8 BOARD MEMBER SIMMONS: Members of the Board.  
9 ASSISTANT ATTORNEY GENERAL MEYN: Members of the  
10 Board -- I think that for purposes of this -- well, that's  
11 a good question, you know. And I answered this about four  
12 years ago. And I -- a non-voting member may not make a  
13 motion, but I think that a non-voting member may  
14 participate in debate and discussions. But they cannot  
15 make a motion.  
16 CHAIRPERSON ASHFORD: But a discussion after a  
17 motion's been made, that would --  
18 ASSISTANT ATTORNEY GENERAL MEYN: I believe -- yes,  
19 they would be included in the discussion or debate.  
20 BOARD MEMBER GUILLOT: That would only include if  
21 they're recognized by the Chair.  
22 CHAIRPERSON ASHFORD: Well, of course. The Chair is  
23 in control.  
24 BOARD MEMBER GUILLOT: I just wanted to clarify that  
25 because it gets to be a zoo.

136

1 CHAIRPERSON ASHFORD: Is there any further business?  
2 Being none, the April 27th Electrical Board meeting is  
3 adjourned.  
4 (Whereupon, at 12:30 p.m.,  
proceedings adjourned.)  
5  
6  
7  
8  
9